



BALLOTPEDIA COURTS DETERMINERS AND DISSENTERS

INTRODUCTION

In the first phase of the Ballotpedia Courts project, we studied the partisan political activity of state supreme court justices. Our research resulted in the development of a partisan Confidence Score for all 341 state supreme court justices seated as of June 15, 2020.

In this second phase of our project, Ballotpedia Courts: Determiners and Dissenters, we examine how these justices decided the cases that came before them in 2020. Which justices ruled together most often? Which frequently dissented? Which courts featured the most unanimous vs. contentious decisions?

To do this, we tracked the position taken by each state supreme court justice in every case they decided in 2020, then tallied the number of times the justices on the court ruled together. We identified the following types of justices:

- ◆ We considered two justices **opinion partners** if they frequently concurred or dissented together throughout the year.
- ◆ We considered justices a **dissenting minority** if they frequently opposed decisions together as a -1 minority.
- ◆ We considered a group of justices a **determining majority** if they frequently determined cases by a +1 majority throughout the year.
- ◆ We considered a justice a **lone dissenter** if he or she frequently dissented alone in cases throughout the year.

Below are some notable highlights from our research:

- ◆ Which state supreme court had the lowest rate of unanimity?
 - ▶ The least unanimous court in the country was the Pennsylvania Supreme Court. The Pennsylvania Supreme Court had a unanimity rate of 43.1 percent. The court heard 116 cases in 2020 and at least one justice dissented or concurred in part and dissented in part in 66 cases.
- ◆ Which state supreme court had the highest rate of unanimity?
 - ▶ Two states had a 98.5 percent rate of unanimity in 2020: Massachusetts and Nebraska.
 - The Massachusetts Supreme Judicial Court heard 194 cases. In those 194 cases the court logged one dissent and 16 concurring opinions.
 - The Nebraska Supreme Court heard 198 cases. In those 198 cases the court logged three dissents and ten concurring opinions.
- ◆ Which determining majority ruled together most frequently in split

cases?

- ▶ The group of four justices most frequently deciding split decisions across any state supreme court in the country were Justices Breckenridge, Draper, Stith, and Russell from Missouri. They allied in the majority in six of the nine split decisions. In our *Ballotpedia Courts: State Partisanship* study, Breckenridge recorded a Mild Republican Confidence Score, Draper recorded an Indeterminate Confidence Score, Stith recorded a Mild Democratic Confidence Score, and Russell recorded a Mild Democratic Confidence Score.
- ◆ Which pair of opinion partners dissented together most frequently?
 - ▶ Justices King and Kitchens from Mississippi dissented together more frequently than any other pair of opinion partners in 2020, allying together 34 times in dissent. The Mississippi Supreme Court heard 164 cases in 2020, which means that they allied in dissent 20.7 percent of the times the court heard a case. There were two or more dissents in 46 cases before the supreme court in 2020, which means that King and Kitchens were opinion partners in 73.9 percent of all cases with at least two dissents. Including majority rulings, in 157 cases before the court, King and Kitchens ruled the same way, which was 96.0 percent of the time. Justices King and Kitchens both received Mild Democratic Confidence Scores in our *Ballotpedia Courts: State Partisanship* study.
- ◆ Which state supreme court justice dissented most frequently?
 - ▶ Justice Josephine Hart from Arkansas dissented more frequently than any justice in the country, with 76 dissents. The Arkansas Supreme Court heard 257 cases in 2020, which means that she dissented in 29.6 percent of the cases heard by the court.
- ◆ Which state supreme court heard the greatest number of cases?
 - ▶ The West Virginia Supreme Court heard 899 cases in 2020. Some of the cases heard by the West Virginia Supreme Court were memorandum decisions. The office of the West Virginia Judiciary defines these cases as “An abbreviated decision on the merits of a case. Memorandum decisions do not contain a syllabus and are not published in the West Virginia Reports.”¹ Because the court hears these abbreviated decisions, they are able to maintain a higher caseload than other courts.
- ◆ Which state supreme court heard the fewest cases?
 - ▶ The New Mexico Supreme Court heard 23 cases in 2020.² In 2019 they heard 25 cases, in 2018 they heard 50 cases, and in 2017 they heard 37 cases, according to Justia.

¹ <https://law.justia.com/cases/new-mexico/supreme-court/>, accessed 4/6/2021.

² In 2020, the Oklahoma Court of Criminal Appeals heard only 22 cases. For our highlights section we wanted to include a supreme court which heard the fewest cases.

THE COUNTRY'S MOST CONTENTIOUS COURTS

Our research revealed the frequency with which each court issued unanimous rulings. We defined a contentious court as one containing justices who frequently disagreed in the outcome of cases in 2020.

We identified 11 contentious courts.

State	Total Cases	Percentage of unanimity	Number of split cases	Number of dissenting opinions	Most common case types
Indiana	59	66.1%	7	11	Criminal
Louisiana	47	68.1%	3	30	Criminal
Michigan	25	64.0%	3	9	Criminal
Mississippi	164	65.2%	4	32	Criminal
Missouri	58	62.1%	9	20	Criminal
New York	82	51.2%	13	40	Criminal
North Carolina	179	66.5%	9	51	Civil
Ohio	436	67.2%	24	83	Criminal
Pennsylvania	116	43.1%	5	46	Criminal
Washington	66	59.1%	6	24	Civil
Wisconsin	89	59.6%	12	49	Nonjudicial activity

METHODOLOGY, TERMS, AND DEFINITIONS

DEFINING OPINION PARTNERS, DETERMINERS, AND DISSENTERS

We identified eight positions that each justice could take when ruling in a case. They are:

- ◆ **Writing for the majority** refers to when a justice writes the opinion joined by a majority of justices on the court. In some split cases the chief justice may write a majority and also issue a separate opinion. This is because in some states the chief justice is responsible for writing the opinion of the court on split decisions but might disagree with the majority to a certain extent.
- ◆ **Majority** refers to the group of justices who decided the outcome of the case in question, and whose reasoning is explained in the court's

opinion. Some state supreme court opinions refer to the majority as concurring with the majority opinion. We have decided to refer to this as joining the majority opinion to distinguish the activity of concurring with part of the majority opinion and agreeing with the majority opinion in judgment and result.

- ◆ **Not participating** refers to a justice not participating in the court's decision either due to a conflict of interest (sometimes referred to as recusal) or for personal (sometimes health-related) reasons.
- ◆ **Concurring** refers to when a justice agrees with the judgment of the majority opinion but disagrees with part of the written opinion.
- ◆ **Concurring opinion** refers to the opinion written by a justice who agrees with the majority's judgment but disagrees with part of the opinion. In the concurring opinion, the justice explains the part of the majority opinion with which he or she disagrees.
- ◆ **Dissenting** refers to when a justice disagrees with the majority's opinion.
- ◆ **Dissenting opinion** refers to the opinion written by a justice who disagrees with the majority. In the dissenting opinion, the justice explains why he or she disagrees with the majority's judgment.
- ◆ **Concurring in part and dissenting in part** refers to when a justice agrees with a part of the majority's opinion but rejects another part of the majority's argument.

DEFINING COURTS OF CONTENTION

We used several criteria to define a courts of contention. Primarily, we considered a court a court of contention if it did not reach unanimous decisions more than 70 percent of the time. Additionally, we considered the frequency of dissents over the course of the year. We also considered the frequency of cases decided by split decision and the tendency of the court to divide into a determining majority and a dissenting minority.

The ten courts we identified as courts of contention decided cases unanimously at a lower rate than 70 percent. Additionally, we chose courts which decided cases by split decision frequently enough that we could roughly determine a pattern between opinion partners, determining majorities, and dissenting minorities.

There are other ways that one could categorize courts as contentious or non-contentious. We welcome other methods of determining contentious courts. We consider our study a first endeavor to determine the courts which most frequently debated the outcomes of important cases.

CASE CATEGORIZATION

We tracked the types of cases that each court heard by placing them in the following categories:

- ◆ **Criminal case:** A criminal case involves a final criminal appeal before the court of last resort.
- ◆ **Civil case:** A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.
- ◆ **Constitutional case:** A constitutional case is one that involves the violation of a right expressly protected by the Constitution of the United States.
- ◆ **Admin/agency law case:** An admin/agency law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation.
- ◆ **State statutory case:** A state statutory case involves the violation or enforcement of a state statute.
- ◆ **Nonjudicial activity:** A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court.

There are many ways to categorize cases, and we welcome alternatives to our classifications. For example, some state court web pages classify all cases into two categories: criminal and civil. We sought to distinguish the cases in order to make the cases more readily navigable for our readers.

ADDITIONAL TERMS

- ◆ **Per curiam** is Latin for “by the court.” Per curiam refers to an opinion issued by the court that does not specify the justice who wrote the opinion.
- ◆ **Jurisdiction** refers to the power of a court to adjudicate cases and issue orders. Jurisdiction can also be referred to as the territory within which a court or government agency may properly exercise its power.
- ◆ **Confidence Score** refers to the scores recorded by justices in our *Ballotpedia Courts: State Partisanship* study.

BALLOTPEDIA COURTS: FINAL ANALYSIS

In our Ballotpedia Courts studies, we’ve looked at how partisanship affects state supreme court rulings. We approached this issue in two ways: one looking at the justices’ partisan activity before they are elected or selected to the court, and how they interact with justices who have similar partisan leanings. To understand how partisanship affects court decisions, we compared the findings from our two reports.

Throughout our study, we have found that in some cases, justices ally with those who share similar partisan history. But justices frequently ally with those who have a seemingly conflicting partisan history. In short, justices of the same party disagree with one another just like justices of different parties disagree with one another.

I: Split courts and the effects of partisanship on majority and minority groups

In some cases, there's an obvious correlation between partisanship and court behavior. On the split courts, or the courts composed of a +1 majority and a -1 minority of justices with contradictory Confidence Scores, the correlation is easier to see. Illinois, Michigan, and Tennessee were the only courts determined to be split courts in our *Ballotpedia Courts: State Partisanship* study.

In 2020, the Michigan Supreme Court was one of the nation's most contentious courts and recorded a unanimity rate of 64 percent, the seventh lowest in the country. Michigan justices fell into predictable majority, minority, and opinion partner patterns. The three justices with Democratic Confidence Scores allied together in all three of the split cases. The four justices with Republican Confidence Scores allied in each split case. Justice Clement was absent in one case, leading to a 3-3 split on the court.

There were three split cases before the Illinois Supreme Court. In one split case before the court the justices fell into a Democratic majority and Republican Minority. In one of the split cases, Justice Theis (Strong Democrat) allied with the Republican minority and Justice Karmeier (mild Republican) allied with the Democratic majority. In another of the split cases, Justices M. Burke (Strong Democrat) and Neville (Strong Democrat) were joined with Justice Garman (mild Republican) in the dissent.

In the one split decision decided by the Tennessee Supreme Court in 2020, the justices fell into a predictable majority and minority. The three justices with Republican Confidence Scores allied in the majority and the two justices with Democratic Confidence Scores allied in the minority. Tennessee recorded an 85.3% rate of unanimity which was the highest of all the split courts.

II: Outliers on the courts and their effects on majority groups

Partisanship seems correlated with interesting behaviors in at least two other situations. When a justice records a Confidence Score which is an outlier on the court one of two things can happen: the justice sometimes acts a frequent lone dissenter (like Justice Appel in Iowa), or the justice may pull a justice from the majority to form an opinion partnership (as seen in Hawaii and Colorado).

Outlying justices often act as a lone dissenter

In our *Ballotpedia Courts: State Partisanship* study, we found that Justice Appel was the only justice of the Iowa Supreme Court who recorded a Democratic Confidence Score. Justice Appel was a lone dissenter eight times in 2020, which was more than any other justice on the court.

Outlying justices often form opinion partnership with justices with Indeterminate Confidence Scores

According to our *Ballotpedia Courts: State Partisanship* study, in 2020 the Colorado Supreme Court was composed of four justices with Democratic

Confidence Scores, two justices with Indeterminate Confidence Scores, and one justice with a Republican Confidence Score. Justice Coats (Mild Republican) was in the dissenting minority with both justices who recorded indeterminate Confidence Scores, and was opinion partners with Justice Boatright who recorded an Indeterminate Confidence Score.

III: Partisan alignment of justices does not always lead to unanimity on the state courts

By comparing four courts, each of which is composed of justices who all recorded Confidence Scores of one party, it becomes clear that partisan alignment does not always lead to unanimity on the courts. In short, justices of the same party disagree with one another just like justices of different parties disagree with one another.

Alabama and Florida

According to our [Ballotpedia Courts: State Partisanship](#) study, Alabama and Florida have two of the most uniformly Republican supreme courts in the country. Every justice from Alabama recorded a Republican Confidence Score. Seven justices recorded a Strong Republican Confidence Score. Two justices recorded a Mild Republican Confidence Score. Every justice from Florida recorded a Republican Confidence Score. Two justices recorded a Strong Republican Confidence Score. Four justices recorded a Mild Republican Confidence Score. Our hypothesis was that if the partisan indicators were stronger, the more agreement we would see in court decisions. However, that was often not the case in 2020. Alabama recorded a unanimity rate of 83.4 percent and Florida recorded a unanimity rate of 86.4 percent. In Alabama, despite every justice on the court recording a Republican Confidence Score, the court disagreed quite often. Our Ballotpedia Courts: Determiners and Dissenters study determined that a pair of opinion partners dissented together 13 times, and two different justices were notable lone dissenters. In Florida, despite shades of difference with regards to the justices' recorded Confidence Scores, there were no opinion partners, no split cases, and one lone dissenter.

Oregon and Washington

According to our [Ballotpedia Courts: State Partisanship](#) study, Oregon and Washington were two of the most uniformly Democratic state supreme courts in the country. All seven justices of the Oregon Supreme Court recorded Democratic Confidence Scores. Three justices recorded Strong Democratic Confidence Scores and four recorded Mild Democratic Confidence Scores. As for Washington, every justice recorded a Mild Democratic Confidence Score, except for Susan Owens who recorded an Indeterminate Confidence Score. In 2020, the Oregon Supreme Court recorded an 88.7 percent rate of unanimity, and Washington recorded a 59.1 percent rate of unanimity. In Oregon, zero cases were decided by split decision, three cases were decided 5-2, and three cases were decided 6-1. In 2020, the Washington Supreme Court decided 12 cases by split decision. There were two or more dissents in 35 cases.

HIGHLIGHTS

Below is a table displaying each court of last resort listed from lowest to highest rate of unanimity:

Court of last resort	Total number of cases	Rate of unanimity	Number of cases decided unanimously
Pennsylvania Supreme Court	116	43.1%	50
New York State Court of Appeals	82	51.2%	42
Arkansas Supreme Court	257	55.6%	143
Washington Supreme Court	66	59.1%	39
Wisconsin Supreme Court	89	59.6%	53
Missouri Supreme Court	58	62.1%	36
Michigan Supreme Court	25	64.0%	16
Mississippi Supreme Court	164	65.2%	107
Oklahoma Supreme Court	112	65.2%	73
Indiana Supreme Court	59	66.1%	39
Supreme Court of North Carolina	179	66.5%	119
Ohio Supreme Court	436	67.2%	293
Iowa Supreme Court	103	68.0%	70
Louisiana Supreme Court	47	68.1%	32
Colorado Supreme Court	91	68.1%	62
Illinois Supreme Court	63	69.8%	44
New Jersey Supreme Court	43	74.4%	32
Minnesota Supreme Court	106	74.5%	79
Oklahoma Court of Criminal Appeals	22	77.3%	17
Texas Court of Criminal Appeals	159	81.1%	129
Texas Supreme Court	90	82.2%	74
Alabama Supreme Court	692	83.4%	577
South Carolina Supreme Court	87	85.1%	74
Tennessee Supreme Court	34	85.3%	29






Florida Supreme Court	110	86.4%	95
Maryland Court of Appeals	149	86.6%	129
New Mexico Supreme Court	23	87.0%	20
Utah Supreme Court	70	87.1%	61
Nevada Supreme Court	91	87.9%	80
Oregon Supreme Court	53	88.7%	47
California Supreme Court	76	89.5%	68
Montana Supreme Court	323	89.5%	289
Hawaii Supreme Court	411	89.5%	368
Idaho Supreme Court	140	90.0%	126
Kansas Supreme Court	120	90.0%	108
Connecticut Supreme Court	43	90.7%	39
South Dakota Supreme Court	73	91.8%	67
Rhode Island Supreme Court	62	91.9%	57
Alaska Supreme Court	138	92.0%	127
Arizona Supreme Court	52	92.3%	48
Maine Supreme Court	143	92.3%	132
Supreme Court of Appeals of West Virginia	899	91.5%	823
Kentucky Supreme Court	200	92.5%	185
New Hampshire Supreme Court	73	93.2%	68
North Dakota Supreme Court	269	94.4%	254
Vermont Supreme Court	218	95.9%	209
Wyoming Supreme Court	158	96.2%	152
Georgia Supreme Court	347	96.3%	334
Supreme Court of Virginia	55	96.4%	53
Delaware Supreme Court	435	97.9%	426
Massachusetts Supreme Court	194	98.5%	191
Nebraska Supreme Court	198	98.5%	195

CONTENTIOUS COURTS

In the section below, we spotlight activity in contentious courts. The charts at the beginning of each state section classify justices under the aforementioned categories of behavior. As a rule, at the beginning of each section in our charts, we indicated that a justice fell into one of the given categories only if he or she performed the action corresponding to each label more than twice.

On many courts the justices did not frequently ally together in a pattern that would allow us to discern a majority, minority, or opinion partners. On the courts where justices did not rule together with the requisite regularity, we have omitted indicating majorities, minorities, and opinion partners in the chart at the beginning of the state section. Instead, the categories are left blank to indicate that there was no pattern for majorities, minorities, or partnership on the court.

INDIANA SUPREME COURT

Justice					
	Christopher Goff	Steven David	Geoffrey Slaughter	Loretta Rush	Mark Massa
Confidence Score	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Strong Republican
Opinion Partners		✓		✓	
Dissenting Minority			✓		✓
Determining Majority	✓	✓		✓	
Lone Dissenter			✓		

SUMMARY

- ▶ Number of justices: **5**
- ▶ Number of cases: **59**
- ▶ Percentage of cases with a unanimous ruling: **66.1% (39)**
- ▶ Justice most often writing the majority opinion: **Justice David (11)**
- ▶ Per curiam decisions: **19**
- ▶ Concurring opinions: **1**
- ▶ Justice with most concurring opinions: **Justice Slaughter (1)**
- ▶ Dissenting opinions: **11**
- ▶ Justice with most dissenting opinions: **Justice Slaughter (7)**

COURT CONTENTION

The Indiana Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 20 cases, which was 33.9 percent of the time the court issued a ruling.

Opinion partners

The two justices who allied most often were Justices David and Rush, who agreed in the ruling of 55 cases heard by the Indiana Supreme Court in 2020, which was 93.2 percent of all cases heard by the Indiana Supreme Court in 2020. In our *Ballotpedia Courts: State Partisanship* study, Justice David recorded a Mild Republican Confidence Score. Justice Rush recorded a Mild Republican Confidence Score.

Dissenting minority

In 2020, the Indiana Supreme Court decided seven cases 3-2. Two of those cases were decided by per curiam opinions. The two justices who allied most often in dissent were Justices Slaughter and Massa, who dissented together three times. In our *Ballotpedia Courts: State Partisanship* study Justice Massa recorded a Strong Republican Confidence Score. Justice Slaughter recorded a Mild Republican Confidence Score.

Determining majority

No justice was in the majority in all seven of the 3-2 decisions of the Indiana Supreme Court in 2020. The three justices most frequently in the deciding majority were Justices David, Goff, and Rush. In our *Ballotpedia Courts: State Partisanship* study Justice David recorded a Mild Republican Confidence Score. Justice Goff recorded a Mild Republican Confidence Score. Justice Rush recorded a Mild Republican Confidence Score.

Lone dissenter

In 2020, Justice Slaughter dissented alone 11 times, which was every time there was a lone dissenter in a case. In five of those cases he wrote a dissenting opinion. Slaughter also wrote three opinions concurring in part and dissenting in part.

COURT JURISDICTION

The Indiana Supreme Court reviews decisions of the Indiana Court of Appeals and the Indiana Tax Court. The Supreme Court also has the power to review and revise sentences imposed by lower courts.

The supreme court also has mandatory jurisdiction over the following types of cases:

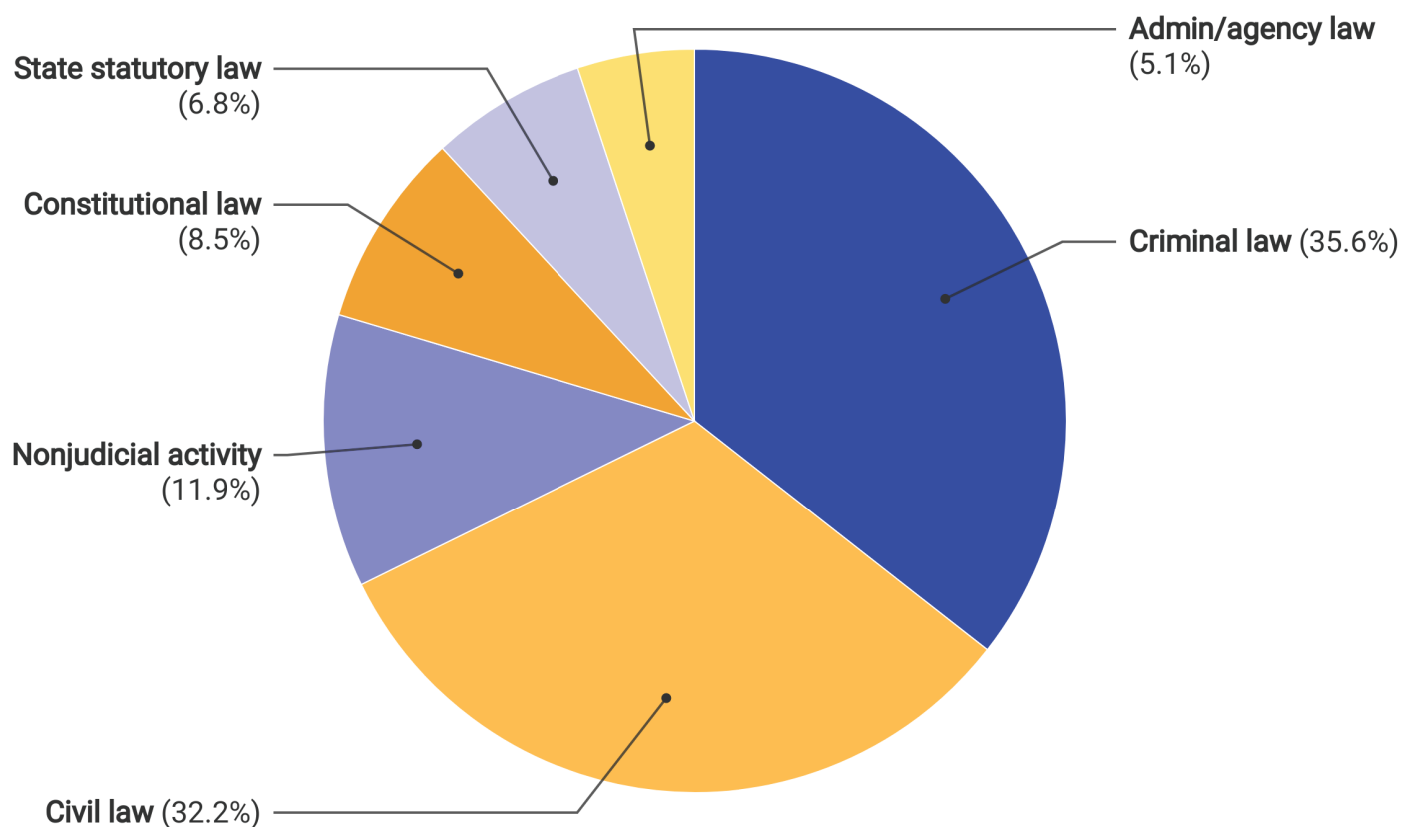
- ◆ appeals where a person received a sentence of death or life in prison;

- ◆ appeals where a state trial court has declared a statute passed by the legislature is unconstitutional. This means these types of cases are not first heard by the Indiana Court of Appeals but go directly to the supreme court.

The court has original, exclusive jurisdiction over the following:

- ◆ admitting attorneys to the practice of law in the state;
- ◆ discipline and disbarment of lawyers;
- ◆ unauthorized practice of law in the state;
- ◆ discipline, removal, and retirement of judges;
- ◆ supervising the exercise of jurisdiction by other courts;
- ◆ issuance of writs necessary in aid of its jurisdiction;
- ◆ appeals denied after a conviction and requested post-conviction relief where there was a death sentence;
- ◆ on petition, cases involving substantial questions of law, great public importance, or emergency.

Case types decided by Indiana Supreme Court, 2020



³ Total case category percentages for each state may total more than 100% because we have rounded to the nearest tenth of a percent for each case category.

The most common cases heard by the Indiana Supreme Court in 2020 were criminal cases. Of the 59 cases it heard, 21 were criminal cases. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Indiana Supreme Court heard 19 civil cases in 2020, or 32.2 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Indiana Supreme Court heard seven cases that were nonjudicial activity.

PROMINENT CASES

Holcomb v. City of Bloomington

Justice	Christopher Goff	Steven David	Geoffrey Slaughter	Loretta Rush	Mark Massa
Holcomb v. City of Bloomington	Concurring	Writing majority opinion	Agreeing with majority opinion	Writing dissenting opinion	Agreeing with Slaughter's dissenting opinion

- ◆ **Contention:** Justice Goff wrote the majority opinion. He was joined by Justice Rush. Justice Slaughter wrote a dissenting opinion and was joined by Justice Massa. Justice David concurred in the result without a separate opinion.
- ◆ **Summary:** The state legislature passed a statute stopping the city of Bloomington's annexation of several areas of land and prohibiting annexation of the areas for five years. The city challenged the constitutionality of the state statute in a declaratory judgment action against Gov. Holcomb. A trial court found the statute unconstitutional. On appeal, the state supreme court sought an answer to two questions: first, whether the city could seek declaratory relief from the governor, and second, whether the statute was constitutional. The state supreme court concluded that the city could challenge and seek relief from the governor, and concluded that the statute was unconstitutional.
- ◆ **Majority Argument:** Justice Goff wrote: "We find that the Governor, in light of his constitutional authority and duty, does enforce Section 11.8 and Bloomington can bring its declaratory judgment action against him here because of the unique way in which the legislature drafted the statute, and because prudential concerns compel us to reach the merits. We also find that the legislature drafted Section 11.8 as a special law when a general law could have been made, so Section 11.8 violates Article 4, Section 23's limitation on special laws. Accordingly, we affirm the trial court's order granting summary judgment and declaratory relief to Bloomington and ruling that

Section 11.8 constitutes impermissible special legislation in violation of Article 4, Section 23 of the Indiana Constitution.” (*Holcomb v. City of Bloomington*, No. 19S-PL-304, 24 (Ind. 2020))

- ◆ **Dissenting Argument:** Justice Slaughter wrote: “Rejecting Governor Holcomb’s argument that he is the wrong defendant in this declaratory-judgment suit, the Court holds that broad principles of standing do not apply here but prudential considerations do. I respectfully disagree on both points and would not give our state constitution’s separation-of-powers mandate such short shrift under either doctrine. Our constitution confines courts to deciding cases over which they have jurisdiction. A justiciable case—one suitable for judicial resolution—has essential constitutional requirements like standing and nonessential considerations like prudence. Today’s decision conflates the essential with the nonessential and thus erodes separation of powers. When a plaintiff lacks standing, any court action exceeds our constitution’s grant of judicial power. Prudence, in contrast, presumes standing and permits a court to skirt a case over which it has jurisdiction. It does not authorize a court to proceed where jurisdiction is lacking. Simply put, Bloomington lacks standing here, which means the courts lack jurisdiction, and prudential considerations cannot fix this fatal flaw.” (*Holcomb v. City of Bloomington*, No. 19S-PL-304, 1 (Ind. 2020))

Seo v. State

Justice	Christopher Goff	Steven David	Geoffrey Slaughter	Loretta Rush	Mark Massa
Seo v. State	Agreeing with majority opinion	Agreeing with majority opinion	Writing majority opinion	Writing dissenting opinion	Writing dissenting opinion

- ◆ **Contention:** Justice Rush wrote the majority opinion. She was joined by Justices David and Goff. Justice Slaughter and Justice Massa wrote separate dissenting opinions.
- ◆ **Summary:** Katelin Seo contacted a local sheriff’s department claiming that she had been raped. A detective met with her and told her that her smartphone contained relevant communications with the accused. With Seo’s consent, officers downloaded data contained in the device. Based on the evidence found in the smartphone, no charges were filed against the man accused by Seo. The detective learned that Seo had stalked and harassed the accused. The detective arrested Seo and took possession of the smartphone, but Seo refused to provide the device’s password. The detective obtained two search warrants, the first authorizing a download of the phone’s data and the second compelling Seo to unlock the phone. Seo refused to unlock the phone and was held in contempt of court. She countered that forcing her to unlock her phone violated her fifth amendment right against

self-incrimination. The state supreme court agreed with Seo, that forcing her to unlock her smartphone compelled self-incrimination.

- ◆ **Majority Argument:** Justice Rush wrote: “Nearly a century ago, U.S. Supreme Court Justice Louis Brandeis cautioned, ‘Ways may some day be developed by which the government, without removing papers from secret drawers, can reproduce them in court, and by which it will be enabled to expose to a jury the most intimate occurrences of the home.’ *Olmstead v. United States*, 277 U.S. 438, 474 (1928) (Brandeis, J., dissenting). That day has come. And to allow the State, on these facts, to force Seo to unlock her iPhone for law enforcement would tip the scales too far in the State’s favor, resulting in a seismic erosion of the Fifth Amendment’s privilege against self-incrimination. This we will not do.” (*Seo v. State*, No. 18S-CR-595, 17 (Ind. 2020))
- ◆ **Massa’s Dissenting Argument:** Justice Massa wrote: “I respectfully dissent from the Court’s opinion deciding the merits of this case because it was mooted when the underlying criminal case was dismissed. And this now-moot case shouldn’t be resolved under our ‘great public interest’ exception because doing so could—in violation of the core principles of federalism—leave our Court as the final arbiter of our nation’s fundamental law.” (*Seo v. State*, No. 18S-CR-595, 1 (Ind. 2020))
- ◆ **Slaughter’s Dissenting Argument:** Justice Slaughter wrote: “I respectfully dissent. Although I agree with Justice Massa that this case is moot, I write separately because I disagree that a mootness exception justifies our reaching the merits of Seo’s constitutional claim. In my view, our prevailing mootness standard does not conform to our constitution’s mandate of separate governmental powers. In lieu of our prevailing standard, I would adopt the federal standard because, consistent with Article 3, Section 1 of our state constitution, it requires that courts decide only actual disputes. Applying this standard here, I would find Seo’s appeal moot and not reach the merits of her Fifth Amendment claim.” (*Seo v. State*, No. 18S-CR-595, 1 (Ind. 2020))

Cavanaugh’s Sports Bar & Eatery, Ltd. v. Porterfield

Justice	Christopher Goff	Steven David	Geoffrey Slaughter	Loretta Rush	Mark Massa
Cavanaugh’s Sports Bar & Eatery Ltd v. Porterfield	Joining Goff’s dissent	Writing dissenting opinion	Agreeing with majority opinion	Agreeing with majority opinion	Writing majority opinion

- ◆ **Contention:** Justice Massa wrote the majority opinion. He was joined by Justices Slaughter and Rush. Justice Goff wrote a dissenting opinion and was joined by Justice David.

- ◆ **Summary:** Eric Porterfield sued Cavanaugh's Sports Bar & Eatery for negligence after a fight in the parking lot with another patron after closing time left him injured and permanently blind. The supreme court ruled that Cavanaugh's owed no duty to protect its patron from the sudden parking lot brawl, the criminal act at issue, when no evidence showed that Cavanaugh's knew the fight was impending.
- ◆ **Majority Argument:** Justice Massa wrote: "Landowners must 'take reasonable precautions to protect invitees from foreseeable criminal attacks.' Rogers, 63 N.E.3d at 326. To determine whether this duty, as a matter of law, extends to the criminal act at issue in a particular scenario, the critical inquiry is to determine whether the attack was foreseeable, considering the broad type of plaintiff, the broad type of harm, and whether the landowner had reason to expect any imminent harm. Because we hold that the criminal attack at issue here was unforeseeable, the duty of Cavanaugh's to protect Porterfield did not extend to this particular scenario." (*Cavanaugh's Sports Bar & Eatery, Ltd. v. Porterfield*, No. 20S-CT-88, 12 (Ind. 2020))
- ◆ **Dissenting Argument:** Justice Goff wrote: "I respectfully dissent from the Court's opinion granting summary judgment to Cavanaugh's. While I appreciate the majority's thorough review of recent caselaw concerning foreseeability in the context of duty, I disagree with it in two primary respects. First, the majority adds new requirements to our foreseeability inquiry, elevating the standard to impose a duty. Second, the majority focuses on the particular facts of this case, contrary to the standard provided by precedent. Both problems cause issues on their own, but, more broadly, they combine to impede the right to trial. I would resolve this case differently—focusing on the general, common-sense nature of this foreseeability inquiry—and find that Cavanaugh's owed Porterfield a duty." (*Cavanaugh's Sports Bar & Eatery, Ltd. v. Porterfield*, No. 20S-CT-88, 1 (Ind. 2020))

LOUISIANA SUPREME COURT

Justices	 Scott Crichton	 Jefferson Hughes	 Bernette Johnson	 James Genovese	 John L. Weimer	 William J. Crain	 James Boddie ⁴
Confidence Score	Mild Republican	Mild Republican	Mild Democrat	Mild Republican	Mild Democrat	Mild Republican	N/A Justice Pro-Tempore
Opinion Partners			✓		✓		
Dissenting Minority							
Determining Majority							
Lone Dissenter			✓				

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **47**
- ▶ Percentage of cases with a unanimous ruling: **68.1% (32)**
- ▶ Justice most often writing the majority opinion: **Justice Crichton (5)**
- ▶ Per curiam decisions: **24**
- ▶ Concurring opinions: **18**
- ▶ Justice with most concurring opinions: **Justice Weimer (9)**
- ▶ Dissenting opinions: **30**
- ▶ Justice with most dissenting opinions: **Justice Johnson**

COURT CONTENTION

The Louisiana Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 32 cases, which was 68.1 percent of the time the court issued a ruling. At least one justice dissented in 24 cases.

Opinion partners

The two justices who allied most often were Justices Boddie and Genovese, who allied in the majority in 36 cases.

⁴ Justice Boddie was a retired justice who filled the seats of Justices Clark and Hughes throughout the year. Because Boddie was retired at the time of our *Ballotpedia Courts: State Partisanship* study, he did not record a Confidence Score.

The two justices who allied with one another most often in dissent were Justices Johnson and Weimer. Justices Johnson and Weimer dissented together three times, which was 12.5 percent of all cases with dissents. In our *Ballotpedia Courts: State Partisanship* study, Johnson recorded a Mild Democratic Confidence Score and Weimer recorded a Mild Democratic Confidence Score.

Court Dissenting minority

Ballotpedia did not identify a court dissenting minority because no three justices consistently ruled together in the minority in split decisions. In 2020 three decisions were decided 4-3. In each of those decisions a different group of justices formed the majority. No justice was in the minority in all three of those decisions. Only two justices were in the dissent in two of the split decisions: Justices Johnson and Weimer.

Determining majority

In the three split decisions issued by the Louisiana Supreme Court in 2020, no four justices were consistently in the majority. No justice was in the majority in all three of the split decisions.

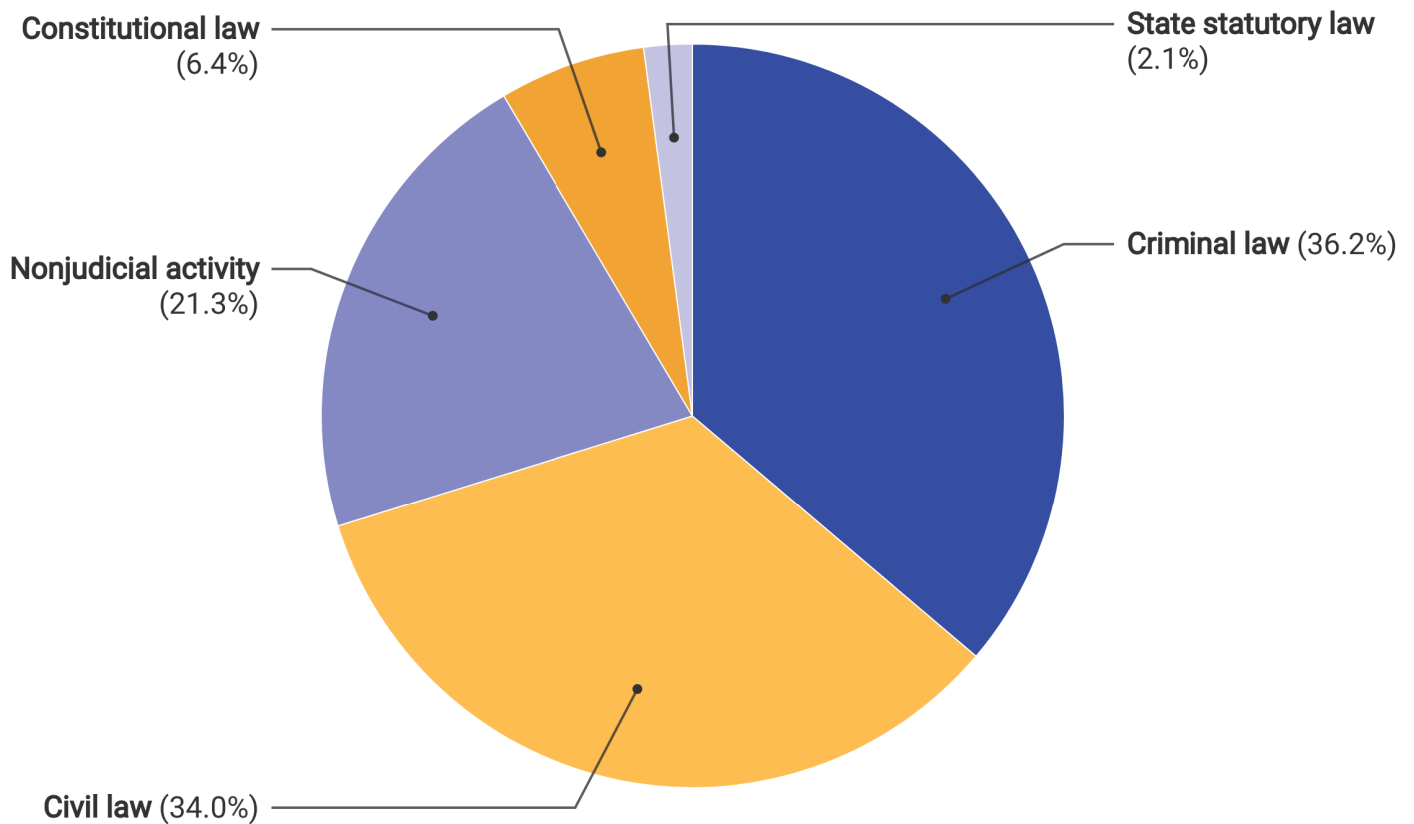
Lone dissenter

In 2020, Justice Johnson dissented alone seven times, which was more than any other justice. There was a lone dissenter in 16 cases. Justice Crain was a lone dissenter second most frequently. Crain dissented alone six times in 2020.

COURT JURISDICTION

The Louisiana Supreme Court has discretionary jurisdiction in civil and criminal cases. Prior to 1982, criminal appellate jurisdiction was within the jurisdiction of the Louisiana Supreme Court; however, with a constitutional amendment that became effective on July 1, 1982, this jurisdiction was transferred to the courts of appeal. The only exception to this is in cases where the death penalty has been imposed.

Case types decided by Louisiana Supreme Court, 2020



BALLOTPEDIA

The most common types of cases heard by the Louisiana Supreme Court in 2020 were criminal cases. Of the 47 cases it heard 17 were criminal cases, which was 36.2 percent of its caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Louisiana Supreme Court heard 16 civil cases in 2020, or 34 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. We considered 10 of the cases heard by the Louisiana Supreme Court as nonjudicial activity, which was 21.3 percent of its total caseload for the year.

PROMINENT CASES

Holcomb v. City of Bloomington

Justice	Scott Crichton	Jefferson Hughes	Bernette Johnson	James Genovese	John L. Weimer	William J. Crain	James Boddie ⁴
Rismiller v. Gemini Insurance Co.	Writing a dissenting opinion	Joining majority opinion	Writing a concurring opinion	Joining majority opinion	Writing a dissenting opinion	Joining Weimer's dissent	Writing majority opinion

- ◆ **Contention:** Justice Boddie wrote the majority opinion. He was joined by Justices Genovese and Hughes. Justice Johnson wrote a concurring opinion. Justice Weimer wrote a dissenting opinion and was joined by Justice Crain. Crichton wrote a separate dissenting opinion.
- ◆ **Summary:** In 2015 an eighteen wheeler collided with a vehicle driven by Richard Stewart. Stewart was killed as well as two of his children, who were his passengers. Following the accident three separate wrongful death suits were filed in district court. Two of the suits were presented by or on behalf of Daniel Goins and David Watts, who were given for adoption by the Stewarts when minors. Goins was adopted by Mr. Stewart's aunt and uncle. Watts was adopted by his maternal grandparents. The driver of the truck and the truck's owner as well as its insurer claimed that Goins and Watts had no right of action. A court of appeal ruled that children given up in adoption are divested of their legal rights except as those relating to inheritance. The Louisiana Supreme Court ruled that Goins and Watts were children of the deceased and siblings of the deceased who were permitted to bring wrongful death and survival actions arising from the deaths of their biological father and half-siblings.
- ◆ **Majority Argument:** Justice Boddie wrote: "we hold that based on the clear and unambiguous language of La. C.C. arts. 2315.1 and 2315.2, Mr. Watts and Mr. Goins, the biological children given in adoption, are 'children of the deceased' and 'brothers of the deceased' who are permitted to bring wrongful death and survival actions arising from the deaths of their biological father and half-siblings. Thus, the district court properly overruled." (*Rismiller v. Gemini Insurance Co.*, No. 2020-CA-0313, 10 (La. 2020))
- ◆ **Johnson's Concurring Argument:** Justice Johnson wrote: "I write separately to express my opinion that any holding to the contrary would also be inconsistent with the general constitutional principles set forth by this court in *Warren v. Richard*, 296 So. 2d 813 (La. 1974). In *Warren*, the court addressed whether an illegitimate child could recover for the wrongful death of her biological father when, at the same time, she was also the legitimate child of another man under the law. *Id.* at 815. Relying on United States Supreme Court jurisprudence, this court found the child had a right to recover under La. C.C. art. 2315." (*Rismiller v. Gemini Insurance Co.*, No. 2020-CA-0313, 2 (La. 2020))
- ◆ **Weimer's Dissenting Argument:** Justice Weimer wrote: "the

defendants' exceptions raising the objection of no right of action, and the plaintiffs' corresponding objections have required an examination of how adoption affects the construction and constitutionality of the Civil Code's provisions for wrongful death and survival actions. As constructed, the wrongful death and survival provisions, Articles 2315.1 and 2315.2, contain lists of eligible claimants. Those lists include children 'by adoption,' a term which refers to children who have been added to a parental relationship—a relationship with the adoptive parents owing manifold duties to those children. See La. C.C. art. 199. No longer included in the lists of claimants established in Articles 2315.1 and 2315.2 are 'children given in adoption,' a term which refers to the transfer of children out of one parental relationship into a different and new parental relationship. See La. C.C. art. 199. The legislature's removal of 'children given in adoption' from the lists of eligible claimants for wrongful death and survival actions is the clearest indicator of the legislature's intent." (*Rismiller v. Gemini Insurance Co.*, No. 2020-CA-0313, 17 (La. 2020))

- ◆ **Crichton's Dissenting Argument:** Justice Crichton wrote: "I write separately to highlight that the majority's interpretation would lead to an absurd result, as it has the potential to double the rights of a child given in adoption by maintaining their rights in conjunction with their biological as well as adoptive parents. With respect to the wrongful death and survival action statutes, for example, a child given in adoption would collect twice the amount as a child not given in adoption if both their biological and adoptive parents were killed by the fault of others. See C.C. art. 2315.1 (defining 'child' to include children by adoption); C.C. art. 2315.2 (same). This is contrary to the intent of the law, which is to equalize children given in adoption unless otherwise provided. See C.C. art. 199 (providing that exceptions to the termination of filiation may be provided by law and including therein an express exception for inheritance rights). Because I do not believe the legislature intended to carve out an exception to C.C. art. 199 simply by the use of the terms 'child' and 'children,' and for the reasons more fully provided by Justice Weimer, I dissent." (*Rismiller v. Gemini Insurance Co.*, No. 2020-CA-0313, 2 (La. 2020))

DePhillips v. Hospital Service Dist. No. 1 of Tangipahoa Parish d/b/a North Oaks Medical Center et al.

Justice	Scott Crichton	Jefferson Hughes	Bernette Johnson	James Genovese	John L. Weimer	William J. Crain	James Boddie ⁴
DePhillips v. Hospital Service Dist. No. 1 of Tangipahoa Parish d/b/a North Oaks Medical Center et al.	Writing majority opinion	Writing a dissenting opinion	Writing a dissenting opinion	Writing a dissenting opinion	Joining majority opinion	Writing a concurring opinion	Joining majority opinion

- ◆ **Contention:** Justice Crichton wrote the majority opinion. He was joined by Justices Boddie and Weimer. Justice Crain wrote a concurring opinion. Justices Genovese, Hughes, and Johnson wrote separate dissenting opinions.
- ◆ **Summary:** In 2011 Earnest Williams was injured in a motor vehicle accident and sought emergency medical treatment from North Oaks Hospital. At the time of the accident Williams was insured under an insurance policy administered by Louisiana Health Service & Indemnity Company Blue Cross and Blue Shield of Louisiana. North Oaks is a contracted provider with Williams' insurance company. North Oaks filed a claim with the insurance company and the insurance company paid a discounted rate. North Oaks then tried to collect from Williams by filing a medical lien against his liability insurance claim for the full and undiscounted charges. Williams petitioned and alleged that North Oaks filed this lien despite being a contracted provider with the insurance company and despite contractual obligations to accept insurance as payment in full. Williams sought relief for violation of the Balance Billing Act, breach of contract, and declaratory relief. A trial court denied the exceptions of no right of action for breach of contract and prescription, but granted North Oaks exception of no cause of action for claims arising before the effective date of the Balance Billing Act. An appellate court denied North Oaks' writ application insofar as it related to the trial court's denial of its exception of prescription. After review, the Supreme Court determined plaintiff's claims were delictual in nature, subject to a one-year prescriptive period.
- ◆ **Majority Argument:** Justice Crichton wrote: "As noted by the court of appeal and as explained above, Williams' petition is silent as to the date the alleged violation of the Balance Billing Act by North Oaks occurred. Further, no evidence was introduced at the hearing on the exception of prescription. Accordingly, we also affirm the court of appeal's reversal of the trial court judgment granting North Oaks' exception of prescription and remand to the trial court, solely to determine the date of the alleged violation and conduct proceedings in accordance with this opinion." (*DePhillips v. Hospital Service Dist. No. 1 of Tangipahoa Par.*, No. 2019-C-01496, 13 (La. 2020))
- ◆ **Crain's Concurring Argument:** Justice Crain wrote: "The majority correctly recognizes that the duty not to balance bill is a statutory one, which did not exist before the enactment of the statute. In fact, as pointed out by Justice Crichton, before the Balance Billing Act was enacted there was positive law allowing balance billing. You cannot have an implied duty to not balance bill in the face of positive law allowing for it. For the reasons set forth in the majority opinion, I agree the action created by the Act is delictual and carries a one-year prescriptive period." (*DePhillips v. Hospital Service Dist. No. 1 of Tangipahoa Par.*, No. 2019-C-01496, 3 (La.

2020))

- ◆ **Johnson’s Dissenting Argument:** Justice Johnson wrote: “The Balance Billing Act prohibits a health care provider from collecting or attempting to collect amounts from an insured patient in excess of the contracted insurance rate with the insurer—a practice commonly known as balance billing. Although this prohibition against balance billing is codified in statute, I find a patient’s claim against a healthcare provider for violations of the Act sound in contract, not tort, and should be governed by a 10-year prescriptive period.” (*DePhillips v. Hospital Service Dist. No. 1 of Tangipahoa Par.*, No. 2019-C-01496, 1 (La. 2020))
- ◆ **Hughes’ Dissenting Argument:** Justice Hughes wrote: “The Constitution provides in Article I, Section 10 that no state shall pass any law impairing the obligation of contracts. Whether the Legislature allows or prohibits balance billing must be seen as subservient to the contracts at issue. If the hospital sues the patient after receiving partial payment from the insurer, the patient can implead the insurer, who can implead the hospital, and the hospital is stuck with the payment agreed to by contract with the insurer.” (*DePhillips v. Hospital Service Dist. No. 1 of Tangipahoa Par.*, No. 2019-C-01496, 1 (La. 2020))
- ◆ **Genovese’s Dissenting Argument:** Justice Genovese wrote: “I respectfully dissent from the majority opinion in this matter. The genesis of this cause of action is rooted in contract. There are three separate contracts: (1) the contract between the insured and his/her health insurance carrier; (2) the contract between the health insurance carrier and the hospital; and, (3) the implied contract between the hospital and the insured upon admission for the service rendered. Additionally, the statute does not provide for a specific prescriptive period. Therefore, we must look to La.Civ. Code art. 3499 which provides that ‘[u]nless otherwise provided by legislation, a personal action is subject to a liberative prescription of ten years’ as a default setting. It is also important to note that our jurisprudence requires that a claim of prescription be strictly construed. *Wells v. Zadeck*, 11-1232, pp. 6-7 (La. 3/30/12), 89 So.3d 1145, 1149 (citing *Carter v. Haygood*, 04-0646 (La. 1/19/05), 892 So.2d 1261; *Bailey v. Khoury*, 04-0620 (La. 1/20/05), 891 So.2d 1268). Thus, I find the ten-year prescriptive period applicable in this matter and would reverse the court of appeal.” (*DePhillips v. Hospital Service Dist. No. 1 of Tangipahoa Par.*, No. 2019-C-01496, 1-2 (La. 2020))








C/W 2018-C-00956 W&T OFFSHORE, L.L.C. VS. TEXAS BRINE CORPORATION AND TEXAS BRINE COMPANY, L.L.C. C/W TEXAS BRINE COMPANY, L.L.C. VS. W&T OFFSHORE, L.L.C.

Justice	Scott Crichton	Jefferson Hughes	Bernette Johnson	James Genovese	John L. Weimer	William J. Crain	James Boddie ⁴
C/W 2018-C-00956 W&T OFFSHORE, L.L.C. VS. TEXAS BRINE CORPORATION AND TEXAS BRINE COMPANY, L.L.C. C/W TEXAS BRINE COMPANY, L.L.C. VS. W&T OFFSHORE, L.L.C.	Joining per curiam opinion	Writing a concurring opinion	Dissented without writing an opinion	Joining per curiam opinion	Writing a dissenting opinion	Joining per curiam opinion	Joining Weimer's dissent

- ◆ **Contention:** The majority opinion was a per curiam opinion. Justices Crain, Crichton, and Genovese joined in the per curiam opinion. Justice Hughes wrote a concurring opinion. Justice Weimer wrote a dissenting opinion and was joined by Justice Boddie. Justice Johnson dissented without writing an opinion.
- ◆ **Summary:** Texas Brine Corp. was the holder of a pipeline servitude. Texas Brine constructed a replacement underground pipeline with a slightly larger diameter and installed that pipeline eight feet away from the original pipeline. W&T argued that Texas Brine had to pull up the old pipeline and lay a new pipeline in the same location as the previous place. W&T sought millions in damages from Texas Brine. A district court issued a judgment in favor of Texas Brine, finding that it had the right to replace the pipeline. The Louisiana Court of Appeal for the First Circuit reversed the district court's decision. The court of appeal found that Texas Brine had the right to relocate the pipeline, but the widening of the diameter of the pipeline constituted a trespass. The Louisiana Supreme Court reversed the court of appeal's decision and reaffirmed the district court's decision, ruling in favor of Texas Brine.
- ◆ **Majority Argument:** The per curiam opinion reads: "We granted defendants' application for rehearing in this case on October 15, 2019. After receiving briefing from the parties and reviewing the record of the matter, we recall our order of October 15, 2019 as improvidently granted, and we deny defendants' application for rehearing." (*W&T Offshore, L.L.C. v. Texas Brine Corp.*, No. 2018-C-00956, 1 (La. 2020))
- ◆ **Concurring Argument:** Justice Hughes wrote: "The uncontroverted testimony at trial was that removing the old pipe and dragging it out through the swamp would be more damaging to the environment than leaving it in place and using an additional eight feet to lay new pipe, the industry standard. Replacing the pipe in the original trench would cause additional economic damage to the landowners by necessarily halting the flow of brine. Texas Brine chose the most reasonable option, least burdensome to the landowners, to fulfill its obligations under the contract in an environmentally safe and economically feasible fashion." (*W&T Offshore, L.L.C. v. Texas Brine Corp.*, No. 2018-C-00956, 1-2 (La. 2020))

- ◆ **Dissenting Argument:** Justice Weimer wrote: “This matter involves a quintessential civilian analysis, based on an agreement and provisions of the Louisiana Civil Code related to property law. This court’s original consideration of this case resulted in a per curiam opinion that declared which litigant prevailed, but does not discuss the law, nor address the facts. The role of a court is primarily to resolve disputes between the immediate parties, but appellate courts and the supreme court write opinions to provide guidance so that the litigants and others similarly situated know how the law applies, and can conduct their affairs accordingly. Property law demands stability, predictability, and clarity. Such a goal is particularly true in this case given the prevalence of pipelines throughout Louisiana and the impact the right-of-use laws have on industries and property owners throughout our state.” (*W&T Offshore, L.L.C. v. Texas Brine Corp.*, No. 2018-C-00956, 2 (La. 2020))

MICHIGAN SUPREME COURT

Justices	 Megan Cavanagh	 Elizabeth Clement	 Brian Zahra	 Davi Viviano	 Richard Bernstein	 Bridget Mary McCormack	 Stephen Markman
Confidence Score	Mild Democrat	Strong Republican	Strong Republican	Strong Republican	Strong Democrat	Mild Democrat	Strong Republican
Opinion Partners			✓				✓
Dissenting Minority	✓				✓	✓	
Determining Majority		✓	✓	✓			✓
Lone Dissenter				✓			

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **25**
- ▶ Percentage of cases with a unanimous ruling: **64.0% (16)**
- ▶ Justice most often writing the majority opinion: **Justice Markman (5)**
- ▶ Per curiam decisions: **3**
- ▶ Concurring opinions: **10**
- ▶ Justice with most concurring opinions: **Justice Viviano (4)**
- ▶ Dissenting opinions: **9**
- ▶ Justice with most dissenting opinions: **Justice Markman (3)**

COURT CONTENTION

The Michigan Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 16 cases, which was 57 percent of the time the court issued a ruling. At least one justice dissented in 36 percent of non-per curiam cases.

Opinion partners

The justices who allied most often were Justices Cavanagh and Clement. Cavanagh and Clement ruled the same way 26 times in 2020, and only ruled differently once. In one other decision, *Council of Organizations & Others for Ed. v. Michigan*, Justice Clement recused herself due to a conflict of interest. In our *Ballotpedia Courts: State Partisanship* study, Cavanagh recorded a Mild Democratic Confidence Score and Justice Clement recorded a Strong Republican Confidence Score.

The two justices who allied most often in dissent were Justices Markman and Zahra. Markman and Zahra dissented together five times, which was 55.6 percent of all cases with dissents. In our *Ballotpedia Courts: State Partisanship* study Markman recorded a Strong Republican Confidence Score and Zahra recorded a Strong Republican Confidence Score.

Court Dissenting minority

The group of three justices who allied most often in dissent were Justices Bernstein, Cavanagh, and McCormack. Justices Bernstein, Cavanagh, and McCormack dissented in the same case twice, which was 66.6 percent of all cases in which three justices dissented. In our *Ballotpedia Courts: State Partisanship* study Bernstein recorded a Strong Democratic Confidence Score. Justice Cavanagh recorded a Mild Democratic Confidence Score. Chief Justice McCormack recorded a Mild Democratic Confidence Score.

Determining majority

In 2020, the Michigan Supreme Court decided three cases 4-3. In two of the three cases, Justice Clement was in the majority, and in one case she was not participating. In two of the split cases Markman, Viviano, and Zahra formed the majority; in one of those cases they were joined by Clement. In the other case decided by split decision, Clement joined Bernstein, Cavanagh, and McCormack to form the majority.

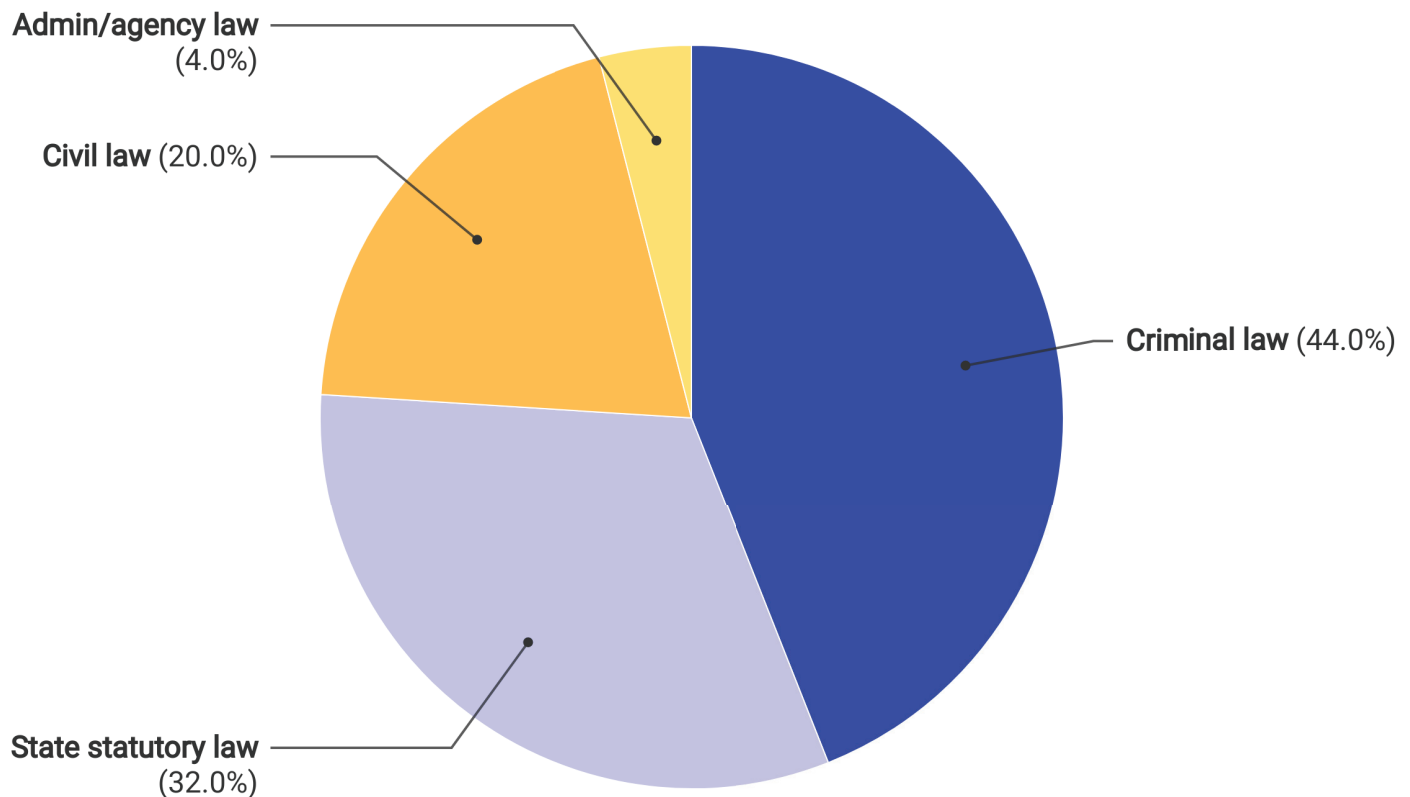
Lone dissenter

In 2020, Justice Viviano ruled alone seven times, which was more than any other justice. Justice Viviano wrote two lone opinions where he concurred in part and dissented in part, dissented alone once, and wrote concurring opinions in which no other justice joined three times.

COURT JURISDICTION

Most cases heard by the Michigan Supreme Court involve review of Michigan Court of Appeals decisions, but the court also hears judicial misconduct cases, as well as some cases of original jurisdiction, as is the case in a bypass appeal. The court has broad superintending control power over all the state courts in Michigan.

Case types decided by Michigan Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Michigan Supreme Court in 2020 were criminal cases. A criminal case is any case involving a final criminal appeal before the court of last resort. Of the 25 cases it heard, 11 were criminal cases. We identified five of the 11 criminal cases heard by the Michigan Supreme Court as cases of interest, meaning that at least one justice departed from the majority. In four of the 11 criminal cases decided by the Michigan Supreme Court, at least one justice wrote a dissenting opinion.

The second most common cases that reached the supreme court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Michigan Supreme Court heard eight state statutory cases in 2020, or 32 percent of its total caseload for the year.

The third most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations

or damages. The Michigan Supreme Court heard five civil cases in 2020, or 20 percent of its total caseload for the year.

PROMINENT CASES

Council of Organizations & Others for Ed. v. Michigan

Justice	Megan Cavanagh	Elizabeth Clement	Brian Zahra	Davi Viviano	Richard Bernstein	Bridget Mary McCormack	Stephen Markman
Council of Organizations & Others for Ed. v. Michigan (Opinion - Leave Granted)	Writing dissenting opinion	Not Participating	Joining the majority opinion	Joining the majority opinion	Joining Cavanagh's dissenting opinion	Joining Cavanagh's dissenting opinion	Writing majority opinion

- ◆ **Contention:** Justice Markman wrote the majority opinion. He was joined by Justices Zahra and Viviano. Justice Cavanagh wrote a dissenting opinion and was joined by Justices McCormack and Bernstein. Justice Clement did not participate because of her prior involvement as chief legal counsel for Governor Rick Snyder (R).
- ◆ **Summary:** In June 2016 Governor Rick Snyder signed a law appropriating \$2.5 million in funds to reimburse costs incurred by nonpublic schools. In July 2016 Gov. Snyder asked the supreme court for an advisory opinion as to whether providing aid to nonpublic schools was prohibited by the state constitution. The court declined his request. In March 2017 the plaintiffs sued the state alleging that the aid to nonpublic schools was prohibited under the state constitution. In July 2017 the Court of Claims issued a preliminary injunction against disbursing the funds. In April 2018 the Court of Claims entered a permanent injunction against disbursing the appropriated funds, concluding that the appropriation of money to nonpublic schools was unconstitutional. In October 2018 the Court of Appeals reversed the Court of Claims' judgment finding that the appropriation of money did not violate the state constitution. The Michigan Supreme Court affirmed the Court of Appeals' reversal by equal division, writing that the disbursement was in accordance with both the religion clauses of the First Amendment of the federal Constitution and Article 8, sec. 2, as amended by Proposal C in 1970, of the Michigan Constitution.
- ◆ **Majority Argument:** Justice Markman wrote: "The central issue here concerns the proper interpretation of Const 1963, art 8, § 2, as amended by Proposal C... Proposal C relevantly provides that '[n]o public monies or property shall be appropriated or paid . . . directly or indirectly to aid or maintain any private, denominational or other nonpublic, pre-elementary, elementary, or secondary school'... Read literally, the state would be prohibited from providing any public benefits to nonpublic schools because doing so would at least presumably 'indirectly' aid the nonpublic school. Providing police and fire services to a nonpublic school, for instance, 'indirectly' aids that school because the school does not need to provide for its own

police or fire protection and, as a result, has available additional funds for other educational purposes. And when that nonpublic school is religious in character and attended by students for that reason, denying the services of the police and fire departments to the nonpublic school-- indeed, denying such services alone to such institutions-- would seemingly raise concerns under the Free Exercise Clause. The only educational institutions that would be deprived of these and other fundamental public services-- provided exclusively and monopolistically by the government-- would be nonpublic schools.” (*Council of Organizations & Others for Ed. v. Michigan*, No. 158751, 15 (Mich. 2020))

- ◆ **Dissenting Argument:** Justice Cavanagh wrote: “The opinion for affirmance turns the alternative construction of *Traverse City* on its head by focusing on the limited discussion regarding auxiliary services, which we explicitly limited to those services at issue in that case. Not only does the opinion for affirmance extend the discussion of auxiliary services beyond the explicit boundaries we set in *Traverse City*, it also exaggerates its import within those boundaries. In reading the opinion for affirmance, one would think that *Traverse City*, in discussing auxiliary services, approved any direct payment to a nonpublic school so long as the payment went toward ‘general health and welfare measures.’” (*Council of Organizations & Others for Ed. v. Michigan*, No. 158751, 22 (Mich. 2020))

Mays v. Snyder

Justice	Megan Cavanagh	Elizabeth Clement	Brian Zahra	Davi Viviano	Richard Bernstein	Bridget Mary McCormack	Stephen Markman
Mays v. Snyder (Opinion - Leave Granted)	Joining McCormack's concurring opinion	Joining McCormack's concurring opinion	Joining Markman's dissenting opinion	Concurring in part and dissenting in part	Writing majority opinion	Writing concurring opinion	Writing dissenting opinion

- ◆ **Contention:** Justice Bernstein wrote the majority opinion. Justice McCormack wrote a concurring opinion and was joined by Justices Cavanagh and Clement. Justice Markman wrote a dissenting opinion and was joined by Justice Zahra. Justice Viviano wrote an opinion concurring in part and dissenting in part.
- ◆ **Summary:** Melissa Mays and other property owners in Flint, Michigan brought a class action suit against Rick Snyder, the state of Michigan, the Michigan Department of Environmental Quality, and the Michigan Department of Health and Human Services, as well as against Darnell Earley and Jerry Ambrose, former emergency managers for the city of Flint. Plaintiffs alleged that the defendants authorized a contract for a water delivery system from the Flint River with knowledge of a 2011 study which cautioned against use of Flint River water. On April 25, 2014, Flint switched its water source to the Flint River, and Flint water users began receiving Flint River water from their taps. Less than a month after the

switch, state officials began to receive complaints from Flint water users about the quality of the water coming out of their taps. In June 2014, residents complained that they were becoming ill after drinking the tap water. Plaintiffs alleged that during this time, state officials failed to take any significant remedial measures to address the growing health threat and instead continued to downplay the health risk. On January 21, 2016, plaintiffs brought a four-count class-action complaint against all defendants in the Court of Claims for state-created danger, violation of plaintiffs' due-process right to bodily integrity, denial of fair and just treatment during executive investigations, and unconstitutional taking via inverse condemnation. The court ruled that the plaintiffs adequately alleged a claim of inverse condemnation and that the government's actions were a substantial cause of the decline of property value.

- ◆ **Majority Argument:** Justice Bernstein wrote: "Plaintiffs present allegations involving one of the most troublesome breaches of public trust in this state's history, with catastrophic consequences for Flint citizens' health, well-being, and property. If plaintiffs' allegations are proved true, we agree that the nature of defendants' alleged constitutional violations weighs markedly in favor of recognizing a damages remedy." (*Mays v. Snyder*, No. 157335-7 & 157340-2, 35 (Mich. 2020))
- ◆ **Concurring Argument:** Justice McCormack wrote: "I concur fully with the lead opinion and agree that the plaintiffs have adequately pled a conscience-shocking violation of their fundamental right to bodily integrity. I write separately to respond to Justice VIVIANO's critique of *Smith v Dep't of Pub Health*, 428 Mich 540; 410 NW2d 749 (1987). This Court is ultimately responsible for enforcing our state's Constitution, and remedies are how we do that." (*Mays v. Snyder*, No. 157335-7 & 157340-2, 2-3 (Mich. 2020))
- ◆ **Dissenting Argument:** Justice Markman wrote: "A majority of this Court now affirms the Court of Appeals' conclusion with regard to plaintiffs' inverse-condemnation claim but affirms only by equal division with regard to plaintiffs' violation-of-bodily-integrity claim. Because I conclude that plaintiffs failed to comply with MCL 600.6431(3), the notice provision of the Court of Claims Act, MCL 600.6401 et seq., I would reverse the Court of Appeals and remand to the Court of Claims for entry of an order disposing of all of plaintiffs' claims and dismissing the case." (*Mays v. Snyder*, No. 157335-7 & 157340-2, 2-3 (Mich. 2020))
- ◆ **Concurring in Part and Dissenting in Part:** Justice Viviano wrote: "I agree with the lead opinion's analysis of plaintiffs' inverse-condemnation claim and remand for further factual development to determine when that claim accrued. But I would reverse the Court of Appeals' denial of defendants' motion for summary disposition concerning plaintiffs' substantive due-process claim for a violation of bodily integrity because I do not believe that substantive due process encompasses a right to be protected from exposure

to contaminated water and I do not believe that plaintiffs allege conscience-shocking conduct on the part of defendants.” (*Mays v. Snyder*, No. 157335-7 & 157340-2, 2 (Mich. 2020))








Sanford v. Michigan

Justice	Megan Cavanagh	Elizabeth Clement	Brian Zahra	Davi Viviano	Richard Bernstein	Bridget Mary McCormack	Stephen Markman
Sanford v. Michigan (Opinion on Application)	Joining McCormack's dissenting opinion	Joining majority opinion	Joining majority opinion	Joining majority opinion	Joining McCormack's dissenting opinion	Writing dissenting opinion	Joining majority opinion

- ◆ **Summary:** Davontae Sanford sought compensation under the Wrongful Imprisonment Compensation Act (WICA) after another man confessed to the crimes committed in 2007 to which Smith pled guilty when he was 15 years old. After the other man's confession a circuit court vacated Sanford's convictions and sentences and he was released from the Michigan Department of Corrections. The court of claims ruled that Sanford was entitled to \$408,356.16 in damages for the eight years he spent in the state correctional facility. Sanford argued that he was entitled to an extra \$27,124.02 for the 198 days he spent in local detention. The Michigan Supreme Court decided that the unfairness or injustice addressed by WICA is the imprisonment of an innocent person following a conviction. Therefore, WICA provides no compensation for individuals who are detained and then subsequently acquitted or released without a conviction, but only provides compensation for imprisonment.
- ◆ **Majority Argument:** Justice Zahra wrote: “This conclusion that the WICA does not compensate plaintiff for the time he spent in detention before his conviction is consistent with the WICA's status as a waiver of the state's sovereign immunity. It makes sense that the Legislature would decline to compensate plaintiff for preconviction detention that was purely the result of local decision-making. The Legislature could have written the WICA as a wrongful-prosecution act or a wrongful-arrest-compensation act, but it did not do so. Rather, the “wrong” addressed by the WICA is imprisonment following a conviction, not preconviction detention. While it is unfortunate that plaintiff spent any time in detention before his wrongful conviction, a reading of the WICA in its entirety reveals that the Legislature did not intend to hold the state accountable to plaintiff for his preconviction detention.” (*Sanford v. Michigan*, No. 159636, 11 (Mich. 2020))
- ◆ **Dissenting Argument:** Justice McCormack wrote: “This interpretation of the WICA engrafts a new limitation on compensable detention that the statute's text does not support: the statute doesn't allow us to decide whether we think Mr. Sanford's pretrial detention was wrongful, unfair or unjust. But even applying

the majority's new eligibility hurdle, I disagree with the majority's blanket determination that pretrial detention is never unfair or unjust. Pretrial detention of an innocent person, like post-trial detention of an innocent person, is unfair and unjust. This case illustrates. And for the WICA, it is "wrongful" if a plaintiff can satisfy the statute's eligibility requirements, which everyone agrees Mr. Sanford has." (*Sanford v. Michigan*, No. 159636, 2 (Mich. 2020))

MISSISSIPPI SUPREME COURT

									
	Leslie King	Jim Kitchens	Josiah Coleman	Jimmy Maxwell	Dawn H. Beam	David Ishee	Mike Randolph	T. Kenneth Griffis	Robert Chamberlin
Confidence Score	Mild Democrat	Mild Democrat	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Strong Republican	Strong Republican
Opinion Partners	✓	✓							
Dissenting Minority	✓	✓	✓						
Determining Majority									
Lone Dissenter								✓	

SUMMARY

- ▶ Number of justices: **9**
- ▶ Number of cases: **164**
- ▶ Percentage of cases with a unanimous ruling: **65.2% (107)**
- ▶ Justice most often writing the majority opinion: **Justice Griffis (19)**
- ▶ Per curiam decisions: **0**
- ▶ Concurring opinions: **19**
- ▶ Justice with most concurring opinions: **Justice King and Justice Kitchens (5)**
- ▶ Dissenting opinions: **32**
- ▶ Justice with most dissenting opinions: **Justice Kitchens (12)**

COURT CONTENTION

The Mississippi Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 56 cases,

which was 35 percent of the time the court issued a ruling. At least one justice dissented in 30 percent of the rulings.

Opinion partners

The two justices who allied most often were Justices King and Kitchens, who agreed 157 times in 2020, which was 96 percent of the time.

Justices King and Kitchens dissented together more than any other pair of justices on the court. They dissented together 34 times, which was 69 percent of all cases with dissents. Justice Kitchens only dissented in three cases in which King was not also a dissenter in 2020. In our *Ballotpedia Courts: State Partisanship* study we tracked the partisanship data on every state supreme court justice in the United States and used that data to assign a partisan Confidence Score. King and Kitchens both recorded Mild Democratic Confidence Scores.

Dissenting minority

In 2020, the Mississippi Supreme Court decided four cases 5-4. The group of three justices who allied most often in dissent were Justices Coleman, King, and Kitchens. Coleman, King, and Kitchens dissented in the same case seven times, which was 58 percent of all cases in which three justices dissented. In our *Ballotpedia Courts: State Partisanship* study King and Kitchens recorded Mild Democratic Confidence Scores and Coleman recorded a Mild Republican Confidence Score. Justices Coleman, King, and Kitchens also allied in one judgment specially concurring with the majority opinion.

Determining majority

None of the justices were in the majority for all four of the 5-4 opinions. There was no group of three justices who agreed in all four of those cases. Only two justices were opinion partners in all four of the split cases: Justices King and Kitchens.

In 2020, the Mississippi Supreme Court decided five cases 6-3. No three justices agreed in all five of those 6-3 decisions. There were two sets of opinion partners who allied in all five of those cases: Justices King and Kitchens, and Justices Maxwell and Chamberlin.

Lone dissenter

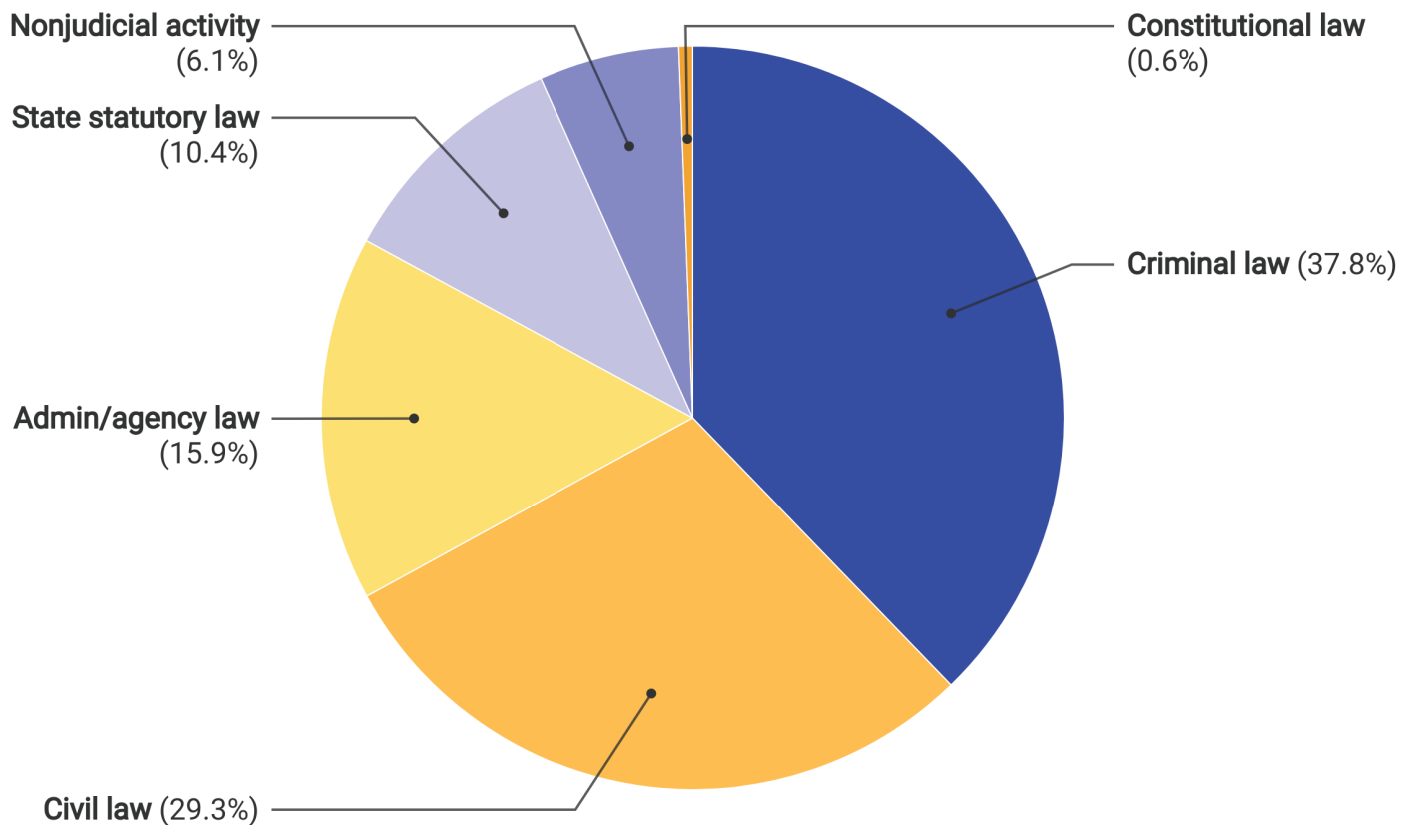
In 2020, Justice Griffis dissented alone three times, which was more than any other justice. There was a lone dissenter in five cases. Justices King and Kitchens were each lone dissenters once in 2020.

COURT JURISDICTION

The Mississippi Supreme Court has exclusive jurisdiction over capital punishment cases, along with annexations, bond issues, constitutionality challenges, death penalty cases, disciplinary matters involving attorneys and judges, election contests, certified questions from federal court, utility rates, cases of first

impression, and issues of broad public interest.

Case types decided by Mississippi Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Mississippi Supreme Court in 2020 were criminal cases. Of the 164 cases it heard, 62 were criminal cases. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Mississippi Supreme Court heard 48 civil cases in 2020, or 29.3 percent of its total caseload for the year.

The third most common cases that reached the court were agency law cases. An agency law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. The Mississippi Supreme Court heard 26 agency law cases in 2020, or 15.9 percent of its total caseload for the year.

PROMINENT CASES

Reeves v. Gunn

Justice	Leslie King	Jim Kitchens	Josiah Coleman	Jimmy Maxwell	Dawn H. Beam	David Ishee	Mike Randolph	T. Kenneth Griffis	Robert Chamberlin
Reeves v. Gunn	Writing dissenting opinion	Agreeing with King's dissent	Writing dissenting opinion	Writing opinion concurring in part, dissenting in part	Joining Maxwell's opinion	Joining Maxwell's opinion	Writing majority opinion	Joining Maxwell's opinion	Agreeing with Coleman's dissent

- ◆ **Contention:** Justice Randolph wrote the majority opinion. Maxwell wrote a separate opinion concurring in part and dissenting in part. Maxwell was joined by Justices Coleman, Beam, Chamberlin, Ishee, and Randolph. Justice King wrote a dissenting opinion and was joined by Kitchens. Justice Coleman wrote a separate dissenting opinion which Maxwell and Chamberlin joined in part.
- ◆ **Summary:** The United States Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which allocated \$1.25 billion to the state of Mississippi to respond to COVID-19. The state legislature passed bills appropriating the money. House Bill 1782 was one such bill. It was an omnibus bill appropriating the money to the Mississippi Development Authority, the State Department of Health, the State Department of Mental Health, and the Board of Trustees of State Institutions of Higher Learning. The bill was sent to Gov. Tate Reeves (R) who vetoed two provisions of the bill. Two members of the Mississippi House of Representatives, the speaker of the Mississippi House of Representatives, and the speaker pro tempore of the House filed suit, charging the governor with violating the state constitution. The Mississippi Supreme Court ruled that the veto of parts of House Bill 1782 was lawful under section 73 of the Mississippi Constitution.
- ◆ **Majority argument:** Justice Randolph wrote: “Both the Governor and the Speaker and the Speaker Pro Tempore advance the argument that today’s dispute is controlled by article 4, sections 69, 72, and 73 of our Constitution. Section 73 of our Constitution grants the Governor authority to veto parts of any appropriations bill. Section 73 reads, verbatim: “the Governor may veto parts of any appropriation bill, and approve parts of the same, and the portions approved shall be law.” Miss. Const. art. 4, § 73.” (*Reeves v. Gunn*, 2020-CA-01107-SCT, 7 (Miss. 2020))
- ◆ **Concurring in part, dissenting in part argument:** Justice Maxwell wrote: “the established practice is to avoid addressing constitutional issues in cases that ‘can be resolved upon other bases[,] and surely this includes the right to invoke the jurisdiction of the Court.’ *Williams v. Stevens*, 390 So. 2d 1012, 1014 (Miss. 1980). Right or wrong, for forty years we have held “standing’ is a jurisdictional question . . .’ *Id.* So resolving standing prospectively certainly appears out of step with our Court’s established practice. I am not saying the Court cannot do this. I just question if it should.” (*Reeves v. Gunn*, 2020-CA-

01107-SCT, 12 (Miss. 2020))

- ◆ **Dissenting argument:** Justice King wrote: “Article 4, section 69, of our Constitution addresses appropriations bills. In making appropriations, the Legislature, and only the Legislature, has the power to ‘prescribe the conditions on which the money may be drawn, and for what purposes paid.’ Miss. Const. art. 4, § 69. The Governor’s power of partial veto relates to appropriations bills ‘containing several items of distinct appropriations[.]’ State v. Holder, 76 Miss. 158, 23 So. 643, 644 (1898); Miss. Const. art. 4, § 73. The parties agree that House Bill 1782 is such an omnibus appropriations bill. They disagree, however, regarding which portions constitute separate and distinct appropriations. The Governor’s partial veto power extends only to distinct, complete, whole appropriations. Holder, 23 So. at 645. The Governor may not veto purposes or conditions of an appropriation, but may only veto separable appropriations in their entirety.” (*Reeves v. Gunn*, 2020-CA-01107-SCT, 22 (Miss. 2020))
- ◆ **Dissenting argument:** Justice Coleman wrote: “Well-settled law requires us to determine whether the courts have the authority to decide the controversy before us before proceeding. Because the two legislators who filed the instant case lack standing and because standing is a jurisdictional requirement, the majority oversteps when it reaches the merits of the case. That the majority reaches the merits after first overruling the only case in which the Court has ever held that individual legislators have standing to challenge a governor’s veto is, at best, perplexing.” (*Reeves v. Gunn*, 2020-CA-01107-SCT, 33 (Miss. 2020))

Carver v. Public Employees’ Retirement System of Mississippi

Justice	Leslie King	Jim Kitchens	Josiah Coleman	Jimmy Maxwell	Dawn H. Beam	David Ishee	Mike Randolph	T. Kenneth Griffis	Robert Chamberlin
Carver v. Public Employees’ Retirement System of Mississippi	Agreeing with Kitchen’s dissent	Writing dissenting opinion	Writing majority opinion	Agreeing with majority opinion	Agreeing with majority opinion	Agreeing with Kitchen’s dissent	Agreeing with majority opinion	Agreeing with Kitchen’s dissent	Agreeing with majority opinion

- ◆ **Contention:** Justice Coleman wrote the majority opinion. He was joined by Justices Maxwell, Beam, Randolph, and Chamberlin. Justice Kitchens wrote a dissenting opinion and was joined by Justices Griffis, Ishee, and King.
- ◆ **Summary:** Brian Carver was a Jackson patrolman for 20 years and was involved in a shooting in which he shot and killed a suspect. When he returned to work he experienced physical and mental health issues while on duty and claimed that he suffered from post-traumatic stress disorder. Carver applied for non-duty-related and duty-related disability benefits. The Public Employees’ Retirement System of Mississippi denied his request for duty-related disability

benefits but granted his non-duty-related disability benefits. The denial was affirmed by the Disability Appeals Committee, the Hinds County Circuit Court, and the Court of Appeals. The Mississippi Supreme Court affirmed, finding that a physical injury arising from an accident or event in the line of duty was necessary to receive duty-related disability.

- ◆ **Majority Argument:** Justice Coleman wrote: “The plain language of Section 25-11-114(6) required, at the time Carver applied for benefits, a physical injury arising from an accident or traumatic event occurring in the line of duty. Post-traumatic stress disorder may cause physiological changes to the brain and manifest in physiological symptoms; however, no physical injury occurred in the line of duty in the case sub judice.” (*Carver v. Public Employees’ Retirement System of Mississippi*, No. 2018-CT-01045-SCT, 10 (Miss. 2020))
- ◆ **Dissenting Argument:** Justice Kitchens wrote: “Post-traumatic stress disorder (PTSD) satisfies the physical-injury requirement of Mississippi Code Section 25-11-114(6) because it physically changes the brain and causes physical manifestations of behavior.” (*Carver v. Public Employees’ Retirement System of Mississippi*, No. 2018-CT-01045-SCT, 11 (Miss. 2020))

Mississippi State Board of Contractors v. Hobbs Construction, LLC








Justice	Leslie King	Jim Kitchens	Josiah Coleman	Jimmy Maxwell	Dawn H. Beam	David Ishee	Mike Randolph	T. Kenneth Griffis	Robert Chamberlin
Mississippi State Board of Contractors v. Hobbs Construction, LLC	Joining majority opinion	Writing majority opinion	Agreeing with Beam's dissent	Agreeing with Beam's dissent	Writing dissenting opinion	Agreeing with Randolph's concurring opinion	Writing concurring opinion	Agreeing with Randolph's concurring opinion	Agreeing with Beam's dissent

- ◆ **Contention:** Justice Kitchens wrote the majority opinion. He was joined by Justice King. Justice Randolph wrote a concurring opinion and was joined by Justices Griffis and Ishee. Justice Beam wrote a dissenting opinion and was joined by Justices Coleman, Chamberlin, and Maxwell.
- ◆ **Summary:** The Mississippi State Board of Contractors revoked the certificate of responsibility held by Hobbs Construction because Hobbs did not pay Pyramid Interiors Distributors \$13,390 he owed in materials. Hobbs executed a forbearance agreement with Pyramid in which an agreement was reached that Hobbs would pay \$11,570. If Pyramid received the payment it would withdraw its complaint, but if Hobbs failed to pay, Pyramid would proceed. At a revocation hearing, the Board decided 5-1 that Hobbs was irresponsible and that its certificate should be revoked rather than suspended. Hobbs requested a preliminary injunction to prevent irreparable harm, claiming that without a preliminary injunction, it would lose business relationships and hundreds of thousands of

dollars in expected profits, and its employees would have to seek other work. The Mississippi Supreme Court ruled that the Board violated Hobbs's constitutional right to due process of law by not providing sufficient notice of the charges that were considered at the revocation hearing and were a basis for the revocation decision.

- ◆ **Majority Argument:** Justice Kitchens wrote: "Under the facts of this case, the Mississippi State Board of Contractors exceeded its powers and violated its own rules. It has allowed aggrieved parties to obtain relief through a misuse of their power that, while not as serious as, is akin to using criminal processes to collect civil debts. The Board abdicated control of its own docket, appeasing the wishes of a complainant to delay action, while delaying its duty to the public." (*Mississippi State Board of Contractors v. Hobbs Construction, LLC*, No. 2018-CA-01389-SCT, 28 (Miss. 2020))
- ◆ **Dissenting Argument:** Justice Beam wrote: "At the outset, I agree that the Board is not vested with judicial authority to resolve contractual disputes between contractors and subcontractors. But the Board is tasked with certain responsibilities by the Legislature in its mandate to protect persons from incompetent and unethical contractors. Thus, a fine line exists between what may be considered proper or improper measures taken by the Board in carrying out that mandate. That line is not blurred here, though, because the Board's minutes show that it did not revoke Hobbs's COR for the purpose of coercing payment or awarding damages to Pyramid. Rather, the Board considered Hobbs's failure to pay Pyramid as evidence that Hobbs was not responsible and that others should be protected from future misdealings by Hobbs." (*Mississippi State Board of Contractors v. Hobbs Construction, LLC*, No. 2018-CA-01389-SCT, 29 (Miss. 2020))

MISSOURI SUPREME COURT

Justices							
Confidence Score	Mild Republican	Indeterminate	Mild Republican	Mild Democrat	Mild Democrat	Mild Democrat	Mild Republican
Opinion Partners			✓				✓
Dissenting Minority			✓			✓	✓
Determining Majority	✓	✓		✓	✓		
Lone Dissenter							

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **58**
- ▶ Percentage of cases with a unanimous ruling: **62.1% (36)**
- ▶ Justice most often writing the majority opinion: **Justice Russell (10)**
- ▶ Per curiam decisions: **7**
- ▶ Concurring opinions: **4**
- ▶ Justice with most concurring opinions: **Justice Breckenridge, Fischer, Powell, Wilson (1)**
- ▶ Dissenting opinions: **20**
- ▶ Justice with most dissenting opinions: **Justice Powell (8)**

COURT CONTENTION

The Missouri Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 22 cases, which was 38.9 percent of the time the court issued a ruling.

Opinion partners

The two justices who allied most often were Justices Fischer and Powell, who agreed in the ruling of 52 cases heard by the Missouri Supreme Court in 2020. In our *Ballotpedia Courts: State Partisanship* study, Fischer recorded a Mild Republican Confidence Score. Powell recorded a Mild Republican Confidence Score.

The two justices who allied with one another most often in dissent were Justices Fischer and Powell. Fischer and Powell dissented together eight times, which was 42.1 percent of all cases with dissents. Justice Powell only dissented in cases in which Justice Fischer also dissented.

Justice Russell and Justice Breckenridge allied in the majority more than any other pair of opinion partners on the court. They allied in the majority 52 times which was 89.7 percent of all cases heard by the court in 2020. In our *Ballotpedia Courts: State Partisanship* study, Breckenridge recorded a Mild Republican Confidence Score. Powell recorded a Mild Democratic Confidence Score.

Dissenting minority

In 2020, the Missouri Supreme Court decided nine cases 4-3. No justice dissented in all nine decisions. The group of justices who allied in dissent most frequently were Fischer, Powell, and Wilson, who dissented together six times.

Determining majority

In 2020, the Missouri Supreme Court decided nine cases 4-3. No justice was in the majority in all nine of those cases. Justice Russell agreed with the majority's ruling in all but one of those cases, which was more than any other justice on the court. Justice Breckenridge agreed with the majority opinion seven times, which was second most of all justices in split decisions.

The group of four justices most frequently ruling in the majority were justices Breckenridge, Draper, Stith, and Russell, who allied in the majority in six of the nine split decisions. In our *Ballotpedia Courts: State Partisanship* study, Breckenridge recorded a Mild Republican Confidence Score. Draper recorded an Indeterminate Confidence Score. Justice Stith recorded a Mild Democratic Confidence Score. Justice Russell recorded a Mild Democratic Confidence Score.

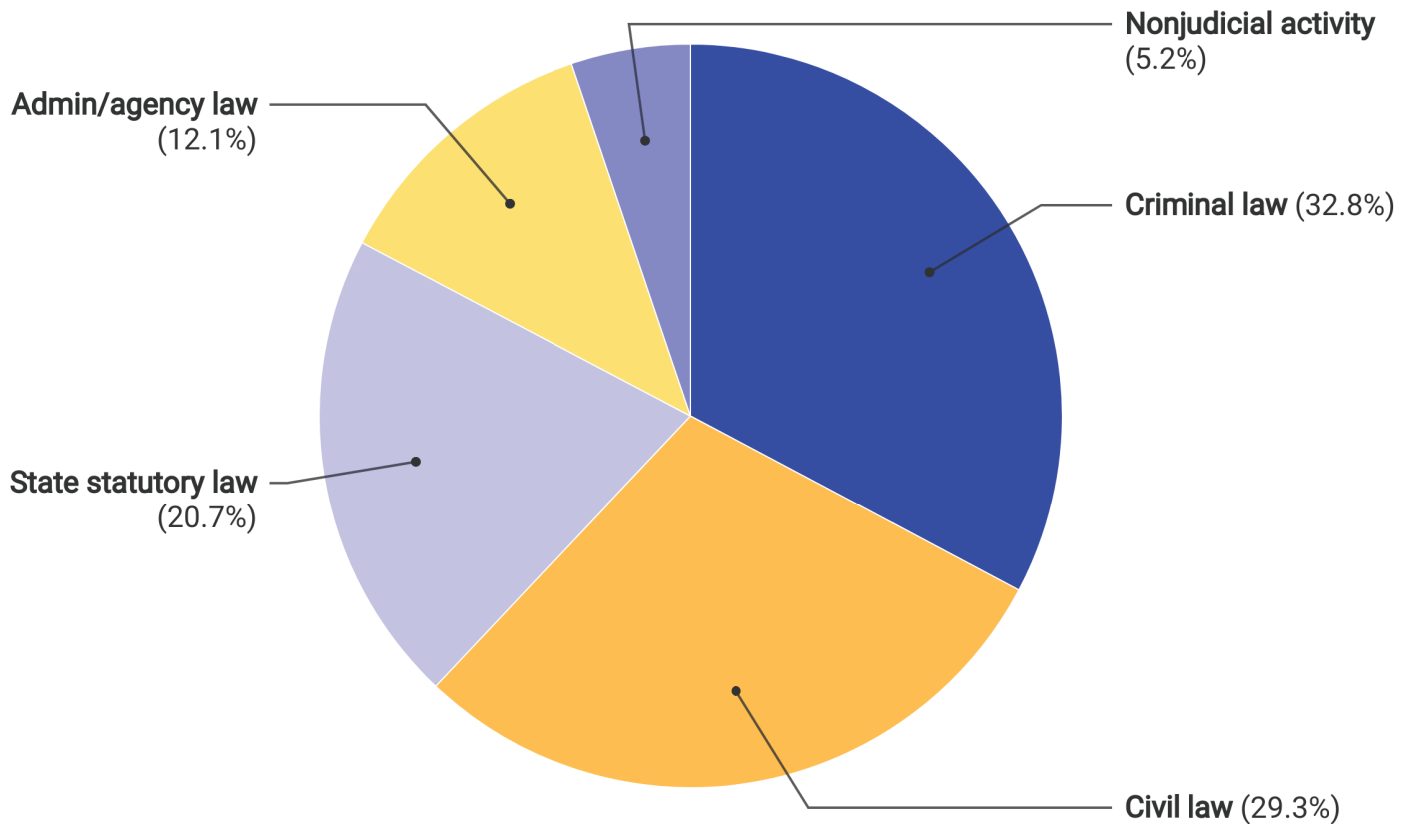
Lone dissenter

In 2020, Justices Stith and Fischer dissented alone two times each, which was more than any other justices on the court. There was a lone dissenter in five cases.

COURT JURISDICTION

The Missouri Supreme Court has exclusive jurisdiction over appeals concerning the validity of federal statutes or treaties, the validity of state statutes or constitutional provisions, state revenue laws, challenges to a statewide elected official's right to hold office, and when the death penalty has been imposed. At its own discretion, the court may hear appeals if a question of general interest or importance is involved, if the law should be re-examined, or if the lower court's decision conflicts with an earlier appellate decision. The court also has a supervisory role over the state's judiciary and attorneys.

Case types decided by Missouri Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Missouri Supreme Court in 2020 were criminal cases. Of the 58 cases it heard, 19 were criminal cases which was 32.8 percent of its caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Missouri Supreme Court heard 17 civil cases in 2020, or 29.3 percent of its total caseload for the year.

The third most common cases that reached the court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Missouri Supreme Court heard 12 state statutory cases in 2020, or 20.7 percent of its total caseload for the year.

PROMINENT CASES

Lollar v. Lollar

Justice	Patricia Breckenridge	George Draper	Zel Fischer	Mary Rhodes Russell	Laura Denvir Stith	Paul C. Wilson	Wesley Brent Powell
Lollar v. Lollar	Writing dissenting opinion	Joining Breckenridge dissent	Writing concurring opinion	Joining majority opinion	Joining Breckenridge dissent	Joining majority opinion	Writing majority opinion

- ◆ **Contention:** Justice Powell wrote the majority opinion. He was joined by Justices Wilson and Russell. Justice Breckenridge wrote a dissenting opinion and was joined by Justices Draper and Stith. Justice Fischer wrote a concurring opinion.
- ◆ **Summary:** Christine Lollar and Richard Lollar were married in 2005 and separated in 2015 after Christine reported her husband to law enforcement officials for sexually assaulting their daughter. He was arrested and charged with first degree statutory rape, first degree statutory sodomy, and first degree child molestation. After Richard's arrest, Christine petitioned for dissolution of marriage. She testified that while her husband was detained she lost her job and had no income. She testified that she used her husband's final paychecks to pay outstanding debts and bills. The marital estate included a 401(k) account in the husband's name which both parties valued at less than \$5,000. Christine did not seek child support or maintenance covered during her husband's incarceration but sought a disproportionate value of the marital estate, including 100 percent of the 401(k). The husband sought a division of the 401(k) account. A circuit court divided the marital estate, awarding the wife a vehicle, the most substantial asset of marital property, and all personal property in her possession, less than half of the marital debt, and to the husband the entire 401(k) account. Christine claimed that the circuit court erred and abused its discretion. The supreme court upheld the circuit court's judgment in awarding the 401(k) to the husband.
- ◆ **Majority Argument:** Justice Powell wrote: "Wife bears the burden to show the asset and debt division was unduly favorable to Husband, and she has not shown the asset and debt division is unfair under the circumstances or that the circuit court committed reversible error. Considering the evidence in the light most favorable to the circuit court's judgment, the court acted within its discretion in awarding the 401(k) account to Husband." (*Lollar v. Lollar*, No. SC97984, 10 (Mo. 2020))
- ◆ **Concurring Argument:** Justice Fischer wrote: "The instant case does not contain an exceedingly important issue, as it merely asks this Court to review the circuit court's judgment under *Murphy v. Carron*, 536 S.W.2d 30 (Mo. banc 1976), which applies to every bench-tried case. Because an exceedingly important issue is not present here, this Court should follow its Rules as written and dismiss Wife's

appeal.” (*Lollar v. Lollar*, No. SC97984, 4 (Mo. 2020))

- ◆ **Dissenting Argument:** Justice Breckenridge wrote: “I respectfully dissent. The principal opinion’s analysis and conclusion that the judgment should be affirmed depend on a misapplication of this Court’s standard for prejudicial error. It holds, contrary to precedent, that Christine Lollar (‘Wife’) was not prejudiced by the circuit court’s misapplication of the law and consequential abuse of discretion, even though she received less than all relief requested and the error affected the result, because Wife ultimately received an advantageous division of the marital estate.” (*Lollar v. Lollar*, No. SC97984, 1 (Mo. 2020))

State ex rel. Koehler v. Honorable Midkiff

Justice	Patricia Breckenridge	George Draper	Zel Fischer	Mary Rhodes Russell	Laura Denvir Stith	Paul C. Wilson	Wesley Brent Powell
State ex rel. Koehler v. Honorable Midkiff	Joining per curiam opinion	Joining per curiam opinion	Joining Powell's dissent	Joining per curiam opinion	Joining per curiam opinion	Joining Powell's dissent	Writing a dissenting opinion

- ◆ **Contention:** The court issued a per curiam opinion. Justices Breckenridge, Draper, Russell, and Stith agreed with the per curiam opinion. Justice Powell wrote a dissenting opinion and was joined by Justices Wilson and Fischer.
- ◆ **Summary:** In 2019 Kelsey Koehler filed a petition for dissolution of marriage against Ryan Koehler, contemporaneously filing for temporary custody of their son. The father requested that the mother’s motion for temporary custody be overruled, then filed a counter-petition for dissolution of marriage in which he sought sole legal and physical custody of their son, alongside a motion for temporary custody. The mother filed a response denying the majority of the father’s allegations and requesting that his motion be dismissed, then filed a supplemental motion for temporary custody with sole legal and physical custody of their son. The circuit court did not conduct a hearing on the competing motions for temporary custody, but entered an order sustaining the father’s motion for temporary custody. The mother filed a motion to set aside the court order and to set an evidentiary hearing. The mother sought a writ of prohibition from the state supreme court, asserting that the circuit court exceeded its authority by entering a custody order without conducting a hearing. The supreme court agreed that the court exceeded its authority when awarding the father temporary custody without a hearing.
- ◆ **Majority Argument:** The per curiam opinion reads: “Given the contentious nature of the custody dispute and Mother’s requests for a hearing to determine temporary custody, the record establishes Mother objected to temporary custody being awarded solely on

the basis of the motions. Accordingly, the circuit court was required to conduct a hearing before awarding temporary custody of Son.” (*State ex rel. Koehler v. Honorable Midkiff*, No. SC98308, 5 (Mo. 2020))

- ◆ **Dissenting Argument:** Justice Powell wrote: “This Court should exercise its discretion to deny extraordinary writ relief because Kelsey Koehler (Mother) can pursue alternative remedies from the circuit court. ... The court instructed the parties to ‘work together to ... arrive at a mutually agreeable modification of the court’s order.’ The order further provided any modified temporary custody arrangement must ‘include parenting time for [Mother] on terms, conditions and times that are in the child’s best interest over the ... time period between now and the final judgment or further orders on temporary custody.’ Despite the opportunity to devise a mutually acceptable temporary custody arrangement, nothing in Mother’s writ petition, the circuit court’s docket sheet, or the record before this Court indicates she attempted to work with Father and the court appointed guardian ad litem to reach a mutually agreeable modification of the temporary custody order. In addition, Mother has not sought a ruling on her pending motion to set aside, amend, or vacate the original temporary custody order at any time since the November 12, 2019 pretrial conference. Instead, Mother seeks extraordinary writ relief.” (*State ex rel. Koehler v. Honorable Midkiff*, No. SC98308, 1-3 (Mo. 2020))

Priorities USA v. State

Justice	Patricia Breckenridge	George Draper	Zel Fischer	Mary Rhodes Russell	Laura Denvir Stith	Paul C. Wilson	Wesley Brent Powell
Priorities USA v. State	Joining majority opinion	Joining majority opinion	Joining Powell's dissent	Writing majority opinion	Joining majority opinion	Joining majority opinion	Writing dissenting opinion








- ◆ **Contention:** Justice Russell wrote the majority opinion. She was joined by Justices Breckenridge, Draper, Stith, and Wilson. Justice Powell wrote a dissenting opinion and was joined by Fischer.
- ◆ **Summary:** Section 115.427 establishes three options under which individuals can identify themselves for the purposes of voting:
 1. 1. an individual can present acceptable forms of personal photo identification
 2. 2. an individual can vote by executing a statutorily specified affidavit and presenting a form of non-photo identification expressly authorized by state statute
 3. 3. individuals can cast a provisional ballot which will be counted if the voter returns to the polling place during polling hours and provides an approved photo identification under option one or the election authority compares the individual’s signature with the signature in the election authority’s file and confirms

accuracy

The respondents filed a petition for relief against the secretary of state alleging that the statute unconstitutionally restricts the right to vote by imposing discriminatory burdens. The circuit court determined the statute was constitutional except for parts of the affidavit requirements in subsections 2(1) and 3. It enjoined the State from requiring individuals who vote under the second option to execute the affidavit required under subsections 2(1) and 3. The circuit court also enjoined the State from disseminating materials that indicated photo identification is required to vote. The state supreme court affirmed the circuit court's judgment.

- ◆ **Majority Argument:** Justice Russell wrote: "Because the affidavit requirement of sections 115.427.2(1) and 115.427.3 is misleading and contradictory, the circuit court's judgment declaring the affidavit requirement unconstitutional is affirmed. Further, the circuit court did not err in enjoining the State from requiring individuals who vote under the non-photo identification option provided in section 115.427.2(1) to execute the affidavit or in enjoining it from disseminating materials indicating photo identification is required to vote. The circuit court's judgment is affirmed." (*Priorities USA v. State*, No. SC97470, 21 (Mo. 2020))
- ◆ **Dissenting Argument:** Justice Powell wrote: "I respectfully dissent. If the affidavit requirement set forth in section 155.4271 is ambiguous, contradictory, and unconstitutional as the principal opinion proclaims, the opinion errs in severing the entire affidavit requirement without also severing the non-photo identification option set out in section 115.427.2 in its entirety. Because the legislature would not have enacted the non-photo identification option without an accompanying affidavit requirement, the principal opinion's remedy is contrary to law." (*Priorities USA v. State*, No. SC97470, 2 (Mo. 2020))

NEW YORK STATE COURT OF APPEALS

Justices							
Confidence Score	Mild Democrat	Mild Democrat	Mild Democrat	Mild Democrat	Mild Democrat	Mild Republican	Mild Republican
Opinion Partners	✓				✓		
Dissenting Minority	✓		✓		✓		
Determining Majority		✓		✓		✓	✓
Lone Dissenter					✓		

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **82**
- ▶ Percentage of cases with a unanimous ruling: **51.2% (42)**
- ▶ Justice most often writing the majority opinion: **Feinman (31)**
- ▶ Per curiam decisions: **42**
- ▶ Concurring opinions: **16**
- ▶ Justice with most concurring opinions: **Wilson (5)**
- ▶ Dissenting opinions: **40**
- ▶ Justice with most dissenting opinions: **Rivera (16)**

COURT CONTENTION

The New York Court of Appeals was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 40 cases, which was 48.8 percent of the time the court issued a ruling.

Opinion partners

The two justices who allied with one another most often in dissent were Justices Rivera and Wilson. Rivera and Wilson dissented together nine times, which was 52.9 percent of all cases with dissents. In our *Ballotpedia Courts: State Partisanship* study, Rivera and Wilson both recorded Mild Democratic Confidence Scores.

Dissenting minority

In 2020, the New York State Court of Appeals decided 13 cases 4-3. The group of three justices who allied most often in dissent were Justices Fahey, Rivera, and Wilson. Justices Fahey, Rivera, and Wilson dissented in the same case six times, which was 46.2 percent of all cases in which three justices dissented. In our *Ballotpedia Courts: State Partisanship* study Justice Fahey recorded a Mild Democratic Confidence Score. Justice Rivera recorded a Mild Democratic Confidence Score. Justice Wilson recorded a Mild Democratic Confidence Score.

Determining majority

In six of the split cases before the New York State Court of Appeals, Justices DiFiore, Feinman, Garcia, and Stein were in the majority, which was 46.2 percent of all split cases. In our *Ballotpedia Courts: State Partisanship* study, DiFiore recorded a Mild Democratic Confidence Score, Feinman recorded a Mild Democratic Confidence Score, Garcia recorded a Mild Republican Confidence Score, and Stein recorded a Mild Republican Confidence Score.

Lone dissenter

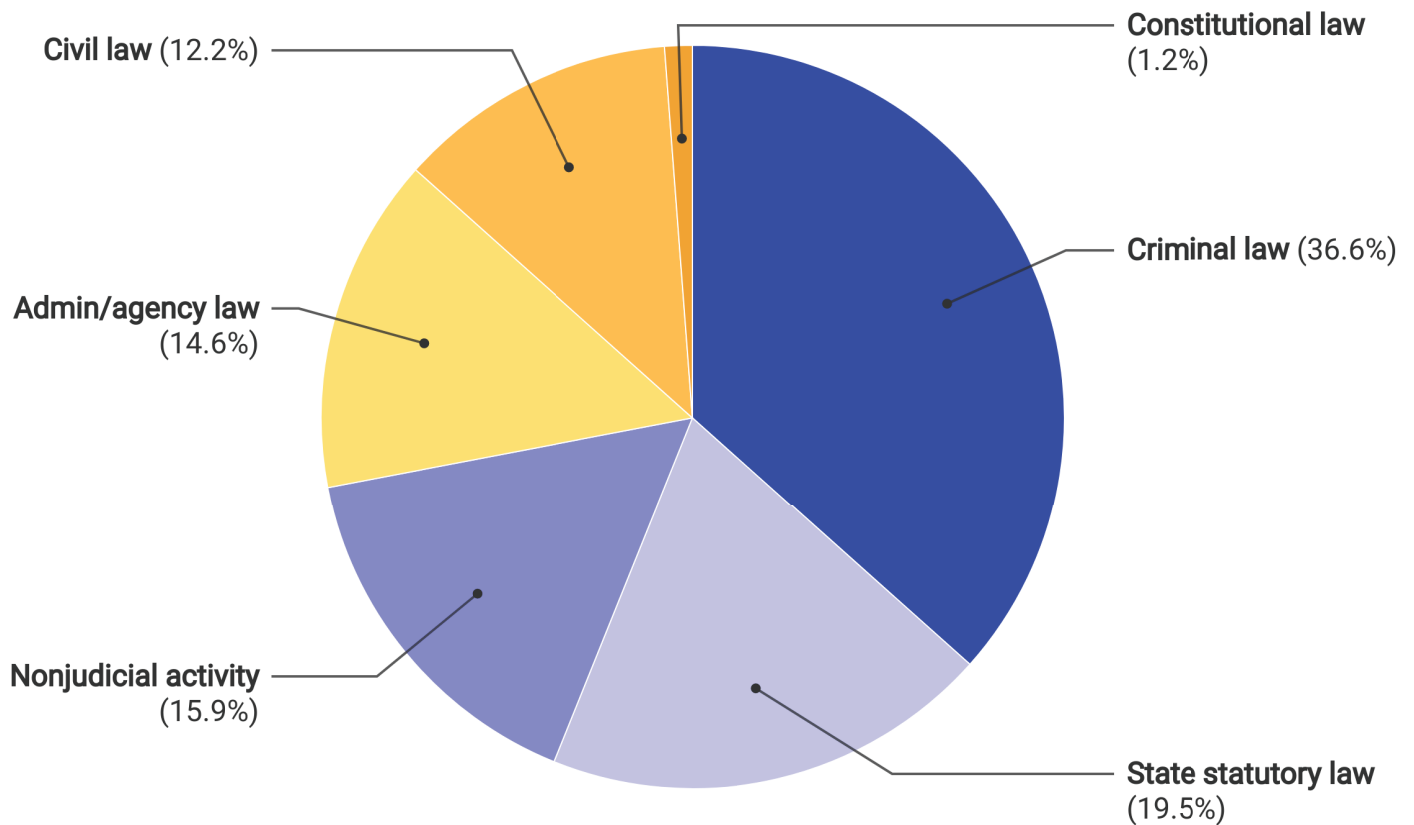
In 2020, Justice Rivera dissented alone four times, which was more than any other justice. There were lone dissenters in eight cases. Justice Wilson dissented alone twice. Justices Fahey and Garcia were each lone dissenters once in 2020.

COURT JURISDICTION

The New York Court of Appeals is the state's court of last resort. As the state's highest court, civil and criminal appeals from the supreme courts and appellate division courts in the state are heard by the Court of Appeals. Some cases may be appealed directly to this court from the state supreme courts.

Determinations made by the State Commission on Judicial Conduct regarding judicial misconduct allegations may also be appealed to this court.

Case types decided by State of New York Court of Appeals, 2020



BALLOTPEDIA

The most common cases heard by the New York Court of Appeals in 2020 were criminal cases. Of the 82 cases it heard, 30 were criminal cases which was 36.6 percent of its caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The New York Court of Appeals heard 16 state statutory cases in 2020, or 19.5 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. Thirteen cases heard by The New York Court of Appeals in 2020 were nonjudicial activity, or 15.9 percent of its total caseload for the year.

PROMINENT CASES

Peyton v. New York City Board of Standards & Appeals

Justice	Rowan Wilson	Janet DiFiore	Eugene Fahey	Paul G. Feinman	Jenny Rivera	Leslie E. Stein	Michael Garica
Peyton v. New York City Board of Standards & Appeals	Writing dissenting opinion	Joining majority opinion	Joining majority opinion	Joining Wilson's dissent	Writing majority opinion	Joining Wilson's dissent	Joining majority opinion

- ◆ **Contention:** Justice Rivera wrote the majority opinion. She was joined by Justices DiFiore, Fahey, and Garcia. Justice Wilson wrote a dissenting opinion and was joined by Justices Feinman and Stein.
- ◆ **Summary:** The New York City Zoning Resolution was adopted in 1961 and requires a minimum amount of open space in high-density residential zoning districts. The minimum amount of open space is determined by a ratio involving the amount of open air on the zoning lot expressed as a percentage of the zoning lot. Originally, the resolution determined that a zoning unit had to be a single lot, but it was amended in 1977 to allow a parcel of lots owned by different owners as a single zone. The zone in question was an urban renewal zone located in Manhattan and comprised three residential buildings. Park West Village, who owned the three residential buildings, acquired ownership of an infill lot and intended to develop additional buildings. They submitted a building permit application to the New York City Department of Buildings (DOB) for a mixed-use building with retail wings, each with a rooftop garden, which they argued constituted open space. Several residents objected that the rooftop gardens were not accessible to them and therefore did not meet the requirements for open space. The DOB rejected the challenge and approved the building. The building was completed in 2010. In 2011 Jewish Home Lifecare, Inc. entered into an agreement with Park West Village to build and operate a nursing facility in the location designated in the 2006 building plan for a community building. The DOB approved the application and agreement. Then, Maggi Peyton, president of the Park West Village Tenants' Association, challenged the issuance of the permit arguing that the nursing home did not satisfy open space requirements. The DOB rejected the challenge. In 2015 Peyton commenced an article 78 proceeding asserting that the interpretation of open space had no legal basis under the zoning resolution. A lower court deferred to the DOB's interpretation of the statute. When Peyton appealed to the New York State Court of Appeals, the court of last resort also deferred to the agency's determination of the resolution in question, denying Peyton's petition and rejecting her contention.
- ◆ **Majority argument:** Justice Rivera wrote: "The BSA's interpretation is rational as applied to multi-owner zoning lots. The text, structure, history, and purpose of the definition of open space show that the BSA's interpretation is consistent with—and indeed furthers—the

legislative intent of the Zoning Resolution’s drafters. Giving due consideration to the BSA’s technical knowledge of the implications for the City’s development of its application of the statute, we conclude that the BSA’s application of the definition of open space to multi-owner zoning lots is not arbitrary, capricious, or contrary to law.” (*Peyton v. New York City Board of Standards & Appeals*, No. 88, 38 (N.Y. 2020))

- ◆ **Dissenting argument:** Justice Wilson wrote: “There is only one plain way to read that language: unless all persons residing in apartments on a zoning lot can access and use a particular space, that space does not count as ‘open space.’ Appellant PWV Acquisition, LLC (PWVA) proposes a different reading: because the Zoning Resolution specifies that open space must be accessible to all persons occupying ‘a’ dwelling unit, the word ‘a’—as PWVA notes—can be read to mean that if all the residents of just one apartment on a zoning lot can access and use a space, that space is ‘open space’. That reading may be a grammatically correct alternative, but it is absurd. No party contends that New York City’s open space requirements could be satisfied by giving a single luxury penthouse apartment a football-field sized private roof deck.” (*Peyton v. New York City Board of Standards & Appeals*, No. 88, 40 (N.Y. 2020))

Sutton 58 Associates LLC v. Pilevsky

Justice	Rowan Wilson	Janet DiFiore	Eugene Fahey	Paul G. Feinman	Jenny Rivera	Leslie E. Stein	Michael Garica
Sutton 58 Associates LLC v. Pilevsky	Joining majority opinion	Joining majority opinion	Joining Rivera's dissent	Joining majority opinion	Writing a dissenting opinion	Writing majority opinion	Joining Rivera's dissent

- ◆ **Contention:** Justice Stein wrote the majority opinion. She was joined by Justices DiFiore, Feinman, and Wilson. Justice Rivera wrote a dissenting opinion and was joined by Justices Fahey and Garcia.
- ◆ **Summary:** In 2014, Sutton 58 Owner LLC purchased several adjacent lots on Sutton Avenue and East 58th Street. Lender Sutton 58 Associates LLC provided the needed financing for the project totaling \$147.25 million in June 2015. The financing consisted of (1) a mezzanine loan agreement with BH Sutton Mezz LLC for \$20,000,000, (2) an acquisition loan agreement with mortgage borrower Sutton Owner for \$125,850,000, and (3) a building loan agreement with Sutton Owner for \$1,400,000. As part of the financing, Sutton Mezz pledged its 100 percent interest in the mortgage borrower as collateral for the mezzanine loan. Sutton Owner failed to repay the loans on the maturity date, and the Sutton lender commenced a UCC foreclosure sale of the pledged Sutton Mezz interests in the mortgage borrower. Sutton Owner commenced litigation in a lower court seeking to enjoin the

planned foreclosure sale of Sutton Mezz's membership interest in the mortgage borrower. The court denied the request for a preliminary injunction finding that mortgage and mezzanine borrowers failed to show likelihood of success on the merits and irreparable harm. Sutton Mezz filed a voluntary bankruptcy petition on the last business day prior to the foreclosure sale in order to prevent the foreclosure sale and to preserve its equity interest in the mortgage borrower. To facilitate the bankruptcy filing, Sutton Mezz borrowed \$50,000 from Prime Alliance Group Ltd., an entity controlled by Philip Pilevsky, to pay a retainer to secure bankruptcy representation from a firm where Pilevsky's nephew was a partner. The loan was not documented in writing and did not bear any interest. An appellate court then reversed the lower court's decision, concluding that Sutton Owner's claims were preempted by federal law because tortious claims only arose because of bankruptcy filing. The New York State Court of Appeals reversed the appellate court's decision holding that Sutton Mezz failed to meet their burden of establishing that bankruptcy law preempted Sutton Owner's tortious interference claims.

- ◆ **Majority argument:** Justice Stein wrote: "Defendants have failed to meet their heavy burden of establishing that federal bankruptcy law preempts plaintiff's tortious interference claims that are based on pre-petition conduct and asserted against non-debtor defendants. Accordingly, the order of the Appellate Division should be reversed, with costs, and the case remitted to the Appellate Division for consideration of issues raised but not determined on the appeal to that Court." (*Sutton 58 Associates LLC v. Pilevsky*, No. 80, 14 (N.Y. 2020))
- ◆ **Dissenting argument:** Justice Rivera wrote: "Plaintiff seeks to recover for damages allegedly caused by bankruptcies that it accuses defendants of facilitating solely to prevent recovery of collateral owed to plaintiff by one of the bankruptcy debtors. Plaintiff chose to forgo the array of federal remedies available to a creditor, like plaintiff, for such alleged misuse of the bankruptcy system. Plaintiff could have sought dismissal of the bankruptcy proceedings, relief from the automatic stay preventing plaintiff's recovery of the collateral, foreclosure on the property, or sanctions against the debtors for their improper conduct. Instead, plaintiff took a different course and allowed the bankruptcy claims to proceed, causing the alleged damages to accrue, only to file this separate action in state court against defendants for tortious interference with contract to recover the same damages... To put it bluntly, federal law preempts plaintiff's workaround of the bankruptcy system." (*Sutton 58 Associates LLC v. Pilevsky*, No. 80, 15 (N.Y. 2020))







Trustees of Columbia University in City of New York v. D'Agostino Supermarkets, Inc.

Justice	Rowan Wilson	Janet DiFiore	Eugene Fahey	Paul G. Feinman	Jenny Rivera	Leslie E. Stein	Michael Garica
Trustees of Columbia University in City of New York v. D'Agostino Supermarkets, Inc.	Joining DiFiore's dissent	Writing a dissenting opinion	Joining majority opinion	Joining majority opinion	Writing the majority opinion	Joining DiFiore's dissent	Joining majority opinion

- ◆ **Contention:** Justice Fahey wrote the majority opinion. She was joined by Justices Feinman, Garcia, and Rivera. Justice DiFiore wrote a dissenting opinion and was joined by Justices Stein and Wilson.
- ◆ **Summary:** The trustees of Columbia University and D'Agostino Supermarkets entered into a 15 year commercial lease for the rental of the ground floor and basement levels of a building owned by Columbia University. Thirteen years after the initiation of the contract D'Agostino Supermarkets was facing financial difficulties and entered a surrender agreement that terminated the lease in exchange for D'Agostino's surrender of the premises and a staggered payment of \$261,751.73. When D'Agostino could not make payments, Columbia commenced action to enforce the damages provision of the surrender agreement. A lower court sided with D'Agostino. Upon appeal, The New York State Court of Appeals held that the damages sought by Columbia were grossly disproportionate to the full amount due according to the surrender agreement.
- ◆ **Majority argument:** Justice Rivera wrote: "Under our well-established rules of contract, the Surrender Agreement's liquidated damages provision does not fairly compensate plaintiff for defendant's delayed installment payments. The provision calls for a sum more than sevenfold the amount due if defendant had complied fully with the Surrender Agreement. We cannot enforce such an obviously and grossly disproportionate award without offending our State's public policy against "the imposition of penalties or forfeitures for which there is no statutory authority" (Truck Rent-A-Ctr., 41 NY2d at 424, citing City of Rye v Public Serv. Mut. Ins. Co., 34 NY2d 470, 472-473 [1974]). Accordingly, there was no error in rejecting plaintiff's liquidated damages provision." (*Trustees of Columbia University in City of New York v. D'Agostino Supermarkets, Inc.*, No. 40, 38 (N.Y. 2020))
- ◆ **Dissenting argument:** Justice DiFiore wrote: "Because there was nothing unfair about the settlement crafted by these well-counseled sophisticated parties, public policy affords no basis to alter their contract. Since the back rent payments were already substantially overdue, Columbia reasonably sought assurance that D'Agostino would uphold its end of the bargain under the Surrender Agreement (something it failed to do under the lease). As reflected in the plain language of the agreement, Columbia was willing

to forego pursuit of its then-existing right to collect both unpaid back rent and future rent only if D'Agostino timely made the back rent installment payments (the owner gave up its right to receive more money overall but would be assured of prompt payment of a discounted amount on a regular schedule, without the need for litigation). Of course, that is not what happened. By eliminating the element that induced the owner to give up its rights, the majority creates a distorted, one-sided settlement in which—despite its default—D'Agostino was able to enjoy the full benefit of the bargain. Because freedom of contract should “prevail[] in [this] arm’s length transaction between sophisticated parties” (159 MP Corp., 33 NY3d at 359) and there is no countervailing public policy basis that would justify relieving D'Agostino of the bargain it struck in the Surrender Agreement, I respectfully dissent.” (*Trustees of Columbia University in City of New York v. D'Agostino Supermarkets, Inc.*, No. 40, 39 (N.Y. 2020))

NORTH CAROLINA SUPREME COURT

Justices							
	Mark Davis	Robin Hudson	Cheri Beasley	Anita Earls	Sam Ervin	Michael Morgan	Paul Martin Newby
Confidence Score	Strong Democrat	Strong Democrat	Strong Democrat	Strong Democrat	Strong Democrat	Strong Democrat	Mild Republican
Opinion Partners						✓	✓
Dissenting Minority	✓				✓		✓
Determining Majority		✓	✓	✓		✓	
Lone Dissenter							✓

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **179**
- ▶ Percentage of cases with a unanimous ruling: **66.5% (119)**
- ▶ Justice most often writing the majority opinion: **Ervin (28)**
- ▶ Per curiam decisions: **18**
- ▶ Concurring opinions: **7**
- ▶ Justice with most concurring opinions: **Ervin (2)**

- ▶ Dissenting opinions: **51**
- ▶ Justice with most dissenting opinions: **Newby (26)**

COURT CONTENTION

The North Carolina Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 119 cases, which was 66.5 percent of the time the court issued a ruling.

Opinion partners

The two justices who allied with one another most often in dissent were Justices Newby and Morgan. Newby and Morgan dissented together eight times, which was 44.4 percent of all cases with two or more justices in the dissent. In our *Ballotpedia Courts: State Partisanship* study, Justice Newby recorded a Mild Republican Confidence Score and Justice Morgan recorded a Strong Democratic Confidence Score.

Dissenting minority

The North Carolina Supreme Court decided nine cases by split decision in 2020. No justice dissented in all nine of those decisions. Justice Davis dissented in seven of those nine decisions, which was more than any other justice on the court.

The group of three justices who allied most often in dissent were Justices Davis, Morgan, and Newby. Davis, Morgan, and Newby dissented in the same case three times, which was 33.3 percent of all cases in which three justices dissented. In our *Ballotpedia Courts: State Partisanship* study Davis recorded a Strong Democratic Confidence Score, Morgan recorded a Strong Democratic Confidence Score, and Newby recorded a Mild Republican Confidence Score.

Determining majority

No justice ruled in the majority in all nine of the cases decided by split decision. Justice Beasley ruled in the majority eight times, which was more than any of her colleagues.

Justices Beasley, Earls, Ervin, and Hudson allied in the majority more than any other group of four justices. In three of the cases decided by split decision, Justices Beasley, Earls, Ervin, and Hudson allied in the majority. In our *Ballotpedia Courts: State Partisanship* study Beasley recorded a Strong Democratic Confidence Score, Earls recorded a Strong Democratic Confidence Score, Ervin recorded a Strong Democratic Confidence Score, and Hudson recorded a Strong Democratic Confidence Score.

Lone dissenter

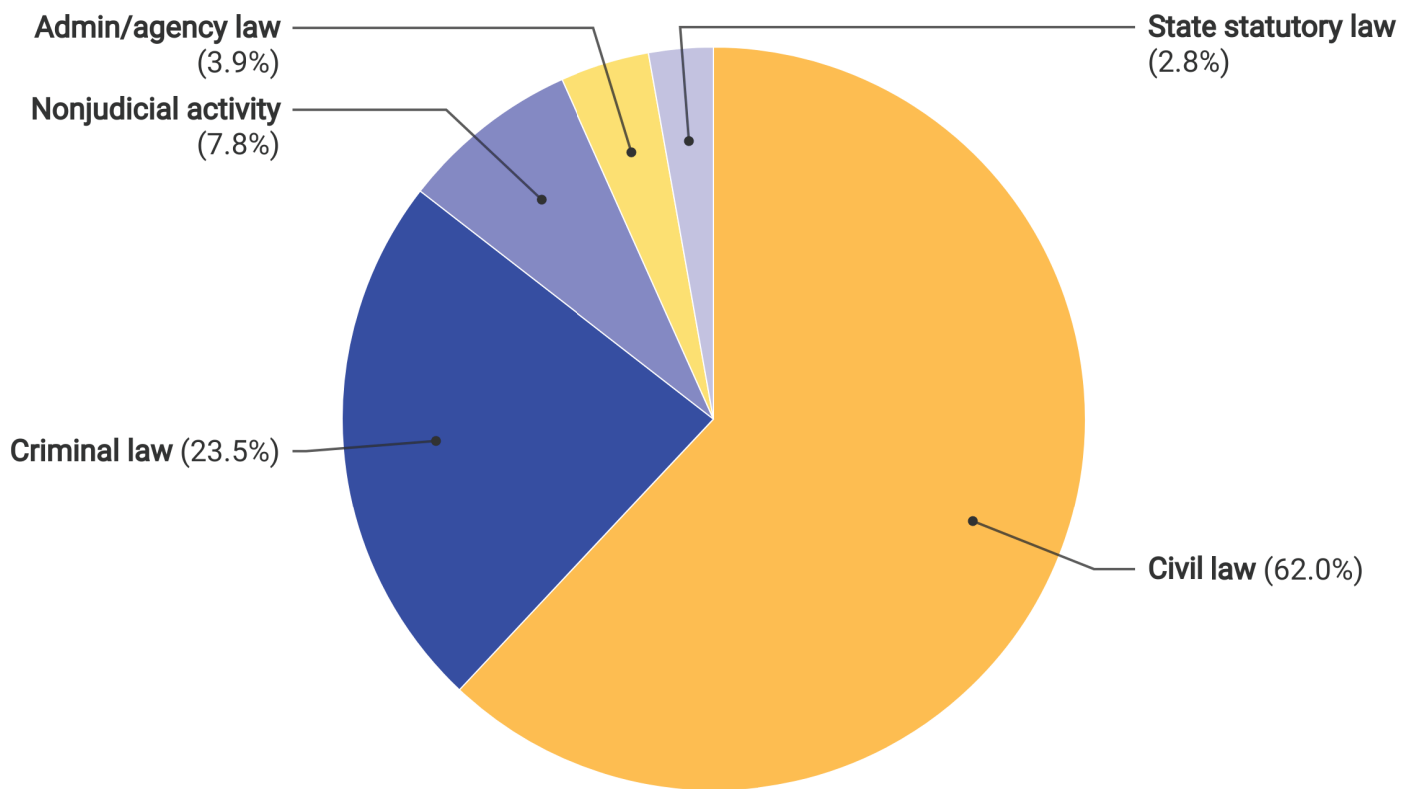
In 2020, Justice Newby dissented alone 22 times, which was more than any other justice. There was a lone dissenter in 34 cases. Justices Earls was a lone dissenter in

ten cases.

COURT JURISDICTION

The primary function of the supreme court is to decide questions of law that have arisen in the lower courts and before state administrative agencies, including court of appeals cases that are reviewed upon petition. The court has jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts. The Supreme Court also has jurisdiction to review, when authorized by law, direct appeals from a final order or decision of the North Carolina Utilities Commission.

Case types decided by Supreme Court of North Carolina, 2020



BALLOTPEDIA

The most common cases heard by the North Carolina Supreme Court in 2020 were civil cases. Of the 179 cases it heard, 111 were civil cases, which was 62.0 percent of its caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal cases. A criminal case involves a final criminal appeal before the court of last resort. The North Carolina Supreme Court heard 42 criminal cases in 2020, or 23.5 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and

discussion before the court. The North Carolina Supreme Court heard 14 criminal cases in 2020, or 7.8 percent of its total caseload for the year.

PROMINENT CASES

In re A.B.C.

Justice	Mark Davis	Robin Hudson	Cheri Beasley	Anita Earls	Sam Ervin	Michael Morgan	Paul Martin Newby
<i>In re A.B.C.</i>	Joining Earls's dissent	Writing the majority opinion	Joining Earls's dissent	Writing a dissenting opinion	Joining majority opinion	Joining majority opinion	Joining majority opinion

- ◆ **Contention:** Justice Hudson wrote the majority opinion. She was joined by Justices Ervin, Newby, and Morgan. Justice Earls wrote a dissenting opinion and was joined by Justices Beasley and Davis.
- ◆ **Summary:** In April 2015 the mother of a minor named Adam was found sleeping inside of a car in a parking lot. Adam, who was four years old, was found crying in the back seat of the car. Adam was placed with a safety resource. The following week the mother was found unresponsive in a car parked in a hospital parking lot. She was admitted to the hospital and treated for drug overdose. The Department of Social Services filed a juvenile petition alleging that Adam was neglected and dependent, and took him into nonsecure custody. After a hearing a trial court declared Adam as a dependent and dismissed the neglect allegations. In a separate disposition the court ordered that the mother submit to a substance abuse assessment and mental health assessment as well as comply with weekly random drug screens. In January 2017 the mother was arrested for violating her probation. In February 2018 a trial court entered disposition orders concluding that there were grounds to terminate the mother's parental rights based on her willful failure to make reasonable progress. The mother argued that the trial court erred. The supreme court upheld the trial court's judgment terminating the mother's parental rights to her minor child.
- ◆ **Majority argument:** Justice Hudson wrote: "The trial court's conclusion that it was in the child's best interests to terminate respondent's parental rights was supported by evidence in the record, was reached according to the directive of N.C.G.S. § 7B-1110(a), and was not otherwise arbitrary. Therefore, because the trial court's decision was not an abuse of its discretion, we affirm that decision." (*In re A.B.C.*, No. 233A19, 21 (N.C. 2020))
- ◆ **Dissenting argument:** Justice Earls wrote: "Contrary to the majority's characterization, this is not a question of whether to accept the trial court's credibility determination regarding whether or not respondent attended counseling programs through Alcoholics Anonymous (AA) or Narcotics Anonymous (NA). The issue here is whether the trial court adequately addressed the Court of

Appeals direction on remand; whether the findings of fact made by the trial court are supported by clear, cogent, and convincing evidence in the record; and whether the trial court's findings adequately support its conclusions of law." (*In re A.B.C.*, No. 233A19,1-2 (N.C. 2020))

DTH Media Corp. v. Folt

Justice	Mark Davis	Robin Hudson	Cheri Beasley	Anita Earls	Sam Ervin	Michael Morgan	Paul Martin Newby
DTH Media Corp. v. Folt	Writing a dissenting opinion	Joining majority opinion	Joining majority opinion	Joining Davis' dissent	Joining Davis' dissent	Writing majority opinion	Joining majority opinion

- ◆ **Contention:** Justice Morgan wrote the majority opinion. He was joined by Justices Beasley, Hudson, and Newby. Justice Davis wrote a dissenting opinion and was joined by Justices Earls and Ervin.
- ◆ **Summary:** The case arose out of a dispute between various news organizations and officials of University of North Carolina at Chapel Hill (UNC-CH)'s administration. The plaintiffs (news organizations) brought legal action against the former chancellor and the Senior Public Records Director of UNC-CH alleging that they violated the Public Records Act when the UNC-CH employees failed to disclose information on the names of any person who has been found responsible for rape since January 1, 2007. The UNC-CH officials claimed that the Family Educational Rights and Privacy Act (FERPA) exempted them from complying with the public records request. A lower court ruled that the UNC-CH officials were required to release the information. The Supreme Court affirmed the judgment of the court of appeals concluding that officials of UNC-CH are required to release, as public records, disciplinary records of its students who have been found to have violated the University's sexual assault policy, holding that the University did not have discretion to withhold the information sought.
- ◆ **Majority argument:** Justice Morgan wrote: "We hold that officials of The University of North Carolina at Chapel Hill are required to release as public records certain disciplinary records of its students who have been found to have violated UNC-CH's sexual assault policy. The University does not have discretion to withhold the information sought here, which is authorized by, and specified in, the federal Family Educational Rights and Privacy Act as subject to release. Accordingly, as an agency of the state, UNC-CH must comply with the North Carolina Public Records Act and allow plaintiffs to have access to the name of the student, the violation committed, and any sanction imposed by the University on that student in response to

plaintiffs' records request." (*DTH Media Corp. v. Folt*, No. 142PA18, 27 (N.C. 2020))

- ◆ **Dissenting argument:** Justice Davis wrote: "The majority's analysis fundamentally misapplies the federal preemption doctrine. As discussed more fully below, the dispositive issue in this case is whether FERPA confers discretion upon universities regarding whether to release the category of records at issue. If FERPA does so, then the doctrine of preemption precludes states from mandating that universities exercise that discretion in a certain way." (*DTH Media Corp. v. Folt*, No. 142PA18, 29 (N.C. 2020))

Draughon v. Evening Star Holiness Church of Dunn







Justice	Mark Davis	Robin Hudson	Cheri Beasley	Anita Earls	Sam Ervin	Michael Morgan	Paul Martin Newby
Draughon v. Evening Star Holiness Church of Dunn	Joining majority opinion	Joining Earls' dissent	Joining majority opinion	Writing a dissenting opinion	Joining majority opinion	Joining Earls' dissent	Writing majority opinion

- ◆ **Contention:** Justice Newby wrote the majority opinion. He was joined by Justices Beasley, Davis, and Ervin. Justice Earls wrote a dissenting opinion and was joined by Justices Hudson and Morgan.
- ◆ **Summary:** Plaintiff visited Defendant's church property for a funeral and helped carry the casket. Plaintiff tripped near the top of the stairs and was injured. The top step was visibly higher than the other steps and made of noticeably different materials. The trial court found that Defendant was entitled to summary judgment. The court of appeals reversed, concluding that genuine issues of material fact existed regarding whether the condition of the top step was open and obvious, whether the top step caused Plaintiff's fall, and whether Plaintiff was contributorily negligent. The Supreme Court reversed, holding (1) the top step was an open and obvious condition such that a reasonably prudent person would have recognized it and taken appropriate care to avoid injury while using it; and (2) Plaintiff did not take the care that an ordinary person would have taken while carrying the casket up the set of stairs and so was contributorily negligent. The Supreme Court reversed the decision of the court of appeals vacating the trial court's grant of summary judgment in favor of Defendant in this negligence action, holding that because the alleged defect was open and obvious and thus should have been evident to Plaintiff and because Plaintiff did not take reasonable care, summary judgment was properly granted.
- ◆ **Majority argument:** Justice Newby wrote: "Because the condition of the top step would be open and obvious to a reasonable person, defendant had no duty to warn plaintiff. Similarly, because plaintiff, after his previous descent of the steps, did not heed the risk obviously presented by the distinct appearance of the top

step, and because he carried the casket while walking sideways without looking at the steps, his own negligence contributed to his fall. The Court of Appeals' decision vacating the trial court's grant of summary judgment is reversed." (*Draughon v. Evening Star Holiness Church of Dunn*, No. 216A19, 13 (N.C. 2020))

- ◆ **Dissenting argument:** Justice Earls wrote: "The plaintiff in this case thought he was merely going to attend a funeral, but when asked to help carry the casket up the stairs into the church, his generosity of spirit went badly awry. Falling on the top step, he was injured. As with most cases alleging negligence, questions concerning what caused the fall, whether he should have been warned or should have seen the alleged hazard himself, and whether a reasonable person would have avoided the fall are all questions for a jury of his peers to decide after hearing all the evidence in court." (*Draughon v. Evening Star Holiness Church of Dunn*, No. 216A19, 1 (N.C. 2020))

OHIO SUPREME COURT

Justices	 Michael P. Donnelly	 Melody Stewart	 Pat Fischer	 Judith French	 Sharon L. Kennedy	 Maureen O'Connor	 Pat DeWine
Confidence Score	Mild Democrat	Mild Democrat	Strong Republican	Strong Republican	Strong Republican	Strong Republican	Strong Republican
Opinion Partners	✓	✓					
Dissenting Minority			✓		✓		✓
Determining Majority	✓	✓		✓		✓	
Lone Dissenter	✓						

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **436**
- ▶ Percentage of cases with a unanimous ruling: **67.2% (293)**
- ▶ Justice most often writing the majority opinion: **O'Connor (32)**
- ▶ Per curiam decisions: **280**
- ▶ Concurring opinions: **66**
- ▶ Justice with most concurring opinions: **Kennedy (18)**
- ▶ Dissenting opinions: **83**

- Justice with most dissenting opinions: **Donnelly (26)**

COURT CONTENTION

The Ohio Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 143 cases, which was 32.8 percent of the time the court issued a ruling.

Opinion partners

The two justices who allied with one another most often in dissent were Justices Donnelly and Stewart. Donnelly and Stewart dissented together 12 times in cases with two dissenters, which was 41.4 percent of all cases with two dissenters. Among all cases, Donnelly and Stewart dissented together 20 times. In our *Ballotpedia Courts: State Partisanship* study, Donnelly and Stewart both recorded Mild Democratic Confidence Scores. Donnelly and Stewart were the only justices on the court who recorded Democratic Confidence Scores in our study.

Dissenting minority

In 2020 the Ohio Supreme Court decided 24 cases by split decision. No justice dissented in all 24 of the cases decided by split decision. Justice Kennedy dissented in the cases decided by split decision 12 times, which was more than any other justice on the court. The group of three justices who allied most often in dissent were Justices Dewine, Fischer, and Kennedy. Dewine, Fischer, and Kennedy dissented in the same case five times, which was 20.8 percent of all cases in which three justices dissented. In our *Ballotpedia Courts: State Partisanship* Study DeWine recorded a Strong Republican Confidence Score, Fischer recorded a Strong Republican Confidence Score, and Kennedy recorded a Strong Republican Confidence Score.

Determining majority

No justice ruled in the majority in all 24 cases decided by split decision. Justice O'Connor ruled in the majority 15 times among all split decisions, which was more than any other justice on the court. Justices Donnelly, French, O'Connor, and Stewart allied in the majority four times in split decisions, which was more than any other group of four justices on the court. In our *Ballotpedia Courts: State Partisanship* study, Donnelly recorded a mild Democrat Confidence Score, Stewart recorded a mild Democrat Confidence Score, French recorded a Strong Republican Confidence Score, and O'Connor recorded a Strong Republican Confidence Score.

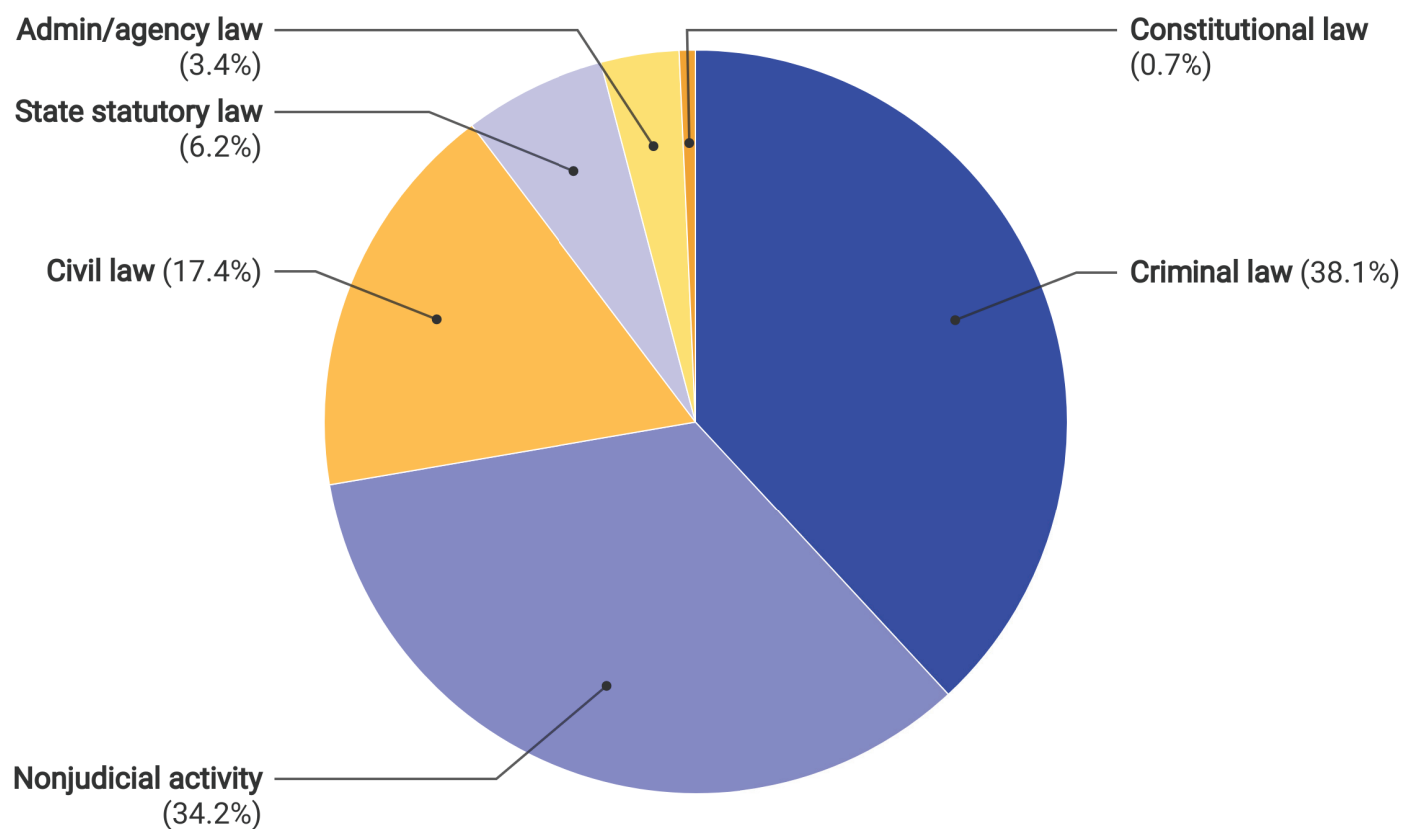
Lone dissenter

In 2020, Justice Donnelly dissented alone 31 times, which was more than any other justice. There was a lone dissenter in 55 cases. Justice Fischer was a lone dissenter 10 times.

COURT JURISDICTION

The Ohio Supreme Court has appellate jurisdiction in cases regarding the state or national constitution, cases that originated in the courts of appeals, cases of conflicting opinions in the appellate courts, and cases involving the death penalty. It may also review the Public Utilities Commission and the Board of Tax Appeals.

Case types decided by Ohio Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Ohio Supreme Court in 2020 were criminal cases. Of the 436 cases it heard 166 were criminal cases, which was 38.1 percent of its caseload. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were nonjudicial cases. Of the 436 cases it heard, 149 cases considered nonjudicial activity which was 34.2 percent of its caseload for the year. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. Most commonly, disciplinary cases brought by the state bar association are nonjudicial activity. Procedural modifications are also considered nonjudicial activity.

The third most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Ohio Supreme Court heard 76 civil cases in 2020, which was 17.4 percent of its caseload for the year.

PROMINENT CASES

Lunsford v. Sterilite of Ohio, LLC

Justice	Michael P. Donnelly	Melody Stewart	Pat Fischer	Judith French	Sharon L. Kennedy	Maureen O'Connor	Pat DeWine
Lunsford v. Sterilite of Ohio, LLC	Joining Stewart's dissent	Writing a dissenting opinion	Joining majority opinion	Joining majority opinion	Writing majority opinion	Joining Stewart's dissent	Joining majority opinion

- ◆ **Contention:** Justice Kennedy wrote the majority opinion. She was joined by Justices DeWine, Fischer, and French. Justice Stewart wrote a dissenting opinion and was joined by Justices Donnelly and O'Connor.
- ◆ **Summary:** Two employees of Sterilite of Ohio, LLC brought suit against their employer. Sterilite has a substance abuse policy as a condition of employment. Their policy sets out three circumstances within which Sterilite may exercise its discretion to require employees to submit to mandatory drug testing: while investigating a workplace incident, when there is reasonable suspicion that the employee may be impaired, and at random periodic intervals. The means whereby the test may be conducted is by urinalysis. A supervisor must inform the employee when and where he or she must report for testing; if the employee does not report for testing within two and a half hours, the employee is subject to immediate termination. If the employee tests positive for illegal drugs, they are subject to discipline up to and including termination. The two employees were selected for random drug testing. They signed paperwork giving their consent to testing; however, they were not aware that they would be giving urine samples under direct observation. The two employees claimed that they were not able to produce a urine sample within the two and half hour time frame. They filed an eight-count complaint in a court of common pleas. At issue before the supreme court was the allegation that Sterilite and their testers invaded the appellee's privacy. The Supreme Court held that when an at-will employee consents, without objection, to the collection of his or her urine sample under the direct-observation method, the at-will employee has no cause of action for common-law invasion of privacy.
- ◆ **Majority argument:** Justice Sharon Kennedy wrote: "A fundamental principle of Ohio's employment-at-will doctrine is that any party to an employment-at-will relationship may terminate the relationship for 'any reason which is not contrary to law' ... And Sterilite [sic] had the right to condition employment on consent to drug testing under the direct-observation method, appellees had the right to refuse to submit to the direct-observation method, and because appellees were at-will employees, Sterilite had the right to terminate their employment for their failure to submit. Because Sterilite had the legal right to terminate appellees' employment at any time,

appellees' argument that their consent was involuntary because of their fear of termination necessarily fails." (*Lunsford v. Sterilite of Ohio, LLC*, Slip Opinion No. 2020-Ohio-4193, 16 (Ohio 2020))

- ◆ **Dissenting argument:** Justice Stewart wrote: "Whether appellees have an invasion-of-privacy cause of action against appellants has nothing to do with their status as at-will employees. An at will-employment relationship does not allow an employer to commit intentional torts against its employees. And appellees' complaint stated sufficient facts to show that Sterilite coerced appellees to submit to the humiliation of having their genitalia directly observed as each of them produced or attempted to produce a urine sample. Because I find that appellees' complaint states a claim for invasion of privacy sufficient to defeat a Civ.R. 12(B)(6) motion to dismiss for failure to state a claim upon which relief can be granted, I dissent." (*Lunsford v. Sterilite of Ohio, LLC*, Slip Opinion No. 2020-Ohio-4193, 17 (Ohio 2020))

Torres Friedenbergl v. Friedenbergl

Justice	Michael P. Donnelly	Melody Stewart	Pat Fischer	Judith French	Sharon L. Kennedy	Maureen O'Connor	Pat DeWine
Torres Friedenbergl v Friedenbergl	Joining Dewine's dissent	Joining Dewine's dissent	Joining majority opinion	Writing majority opinion	Concurring with the majority opinion	Joining majority opinion	Writing a dissenting opinion

- ◆ **Contention:** Justice French wrote the majority opinion. She was joined by Justices Fischer and O'Connor. Justice Kennedy concurred with the majority in judgment. Justice DeWine wrote a dissenting opinion and was joined by Justices Donnelly and Stewart.
- ◆ **Summary:** During divorce proceedings, both parents sought custody of their four children. The father issued subpoenas for the mother's mental health records to various doctors. The trial court ordered the records be submitted under seal to the court for a determination of their relevance. The trial judge concluded that the mother's requests for child custody and spousal support put her physical and mental health conditions at issue and waived the physician-patient privilege. The court ordered the release of the mental health records subject to protective order. The court of appeals affirmed. The supreme court affirmed, holding that while physician-patient communication is generally privileged, the other's filing of the divorce action with claims for child custody and support triggered an exception to the privilege.
- ◆ **Majority argument:** Justice Fischer wrote: "Both the trial court and the court of appeals correctly applied the statutory provisions defining the physician-patient privilege in Ohio. Although communications between a physician and patient are generally privileged under R.C. 2317.02(B)(1), Belinda's filing of this divorce

action, with claims for child custody and spousal support, triggered the R.C. 2317.02(B)(1)(a)(iii) exception to the privilege for communications that relate causally or historically to physical or mental injuries relevant to issues in the divorce action. By statute, Belinda's mental and physical conditions are mandatory considerations for the trial court's determination of her claims for both child custody and spousal support. See R.C. 3109.04(F)(1)(e) and 3105.18(C)(1)(c). And the trial court appropriately examined in camera the submitted mental-health records to determine their relevance before ordering their release, subject to a protective order." (*Torres Friedenber*g v. *Friedenber*g, Slip Opinion No. 2020-Ohio-3345, 15 (Ohio 2020))

- ◆ **Dissenting argument:** Justice DeWine wrote: "Because a majority of this court departs from the plain language of the statutory provisions regarding the physician-patient privilege, I respectfully dissent. The trial court ordered that Belinda Torres Friedenber's mental-health records be turned over to her husband Keith Friedenber simply because Belinda had asked for custody of their children and for spousal support in their divorce dispute. The statute establishing a privilege for physician-patient communications neither any time, requires nor permits such a result." (*Torres Friedenber*g v. *Friedenber*g, Slip Opinion No. 2020-Ohio-3345, 16 (Ohio 2020))

Youngstown City School District Board of Education v. State

Justice	Michael P. Donnelly	Melody Stewart	Pat Fischer	Judith French	Sharon L. Kennedy	Maureen O'Connor	Pat DeWine
Youngstown City School District Board of Education v. State	Writing a dissenting opinion	Writing a dissenting opinion	Joining majority opinion	Writing a concurring opinion	Wrote an opinion concurring in judgement only	Writing majority opinion	Joined Kennedy's opinion concurring in judgement only

- ◆ **Contention:** Justice French wrote the majority opinion. She was joined by Justices Fischer and O'Connor. Justice French wrote a concurring opinion. Justice Kennedy concurred only with the majority in judgment. Justice Donnelly wrote a dissenting opinion. Justice Stewart wrote a dissenting opinion.
- ◆ **Summary:** House Bill 70 enacted new sections within the Ohio Rev. Code Chapter 3302 to authorize schools and school districts to create community learning centers at schools where academic performance was low. After the bill was signed into law Youngstown City School District Board of Education moved for declaratory judgment and permanent injunction arguing that the bill was unconstitutional as was the General Assembly's process in enacting it. Specifically, they argued that the assembly violated the three-consideration rule articulated in Article II, Section 15(C). They also argued that Article VI, Section 3 provides that a city school district has the power "by referendum vote to determine for itself the

number of members and the organization of the district board of education.” The trial court denied their motion, and the court of appeals affirmed. The supreme court affirmed the judgment of the lower courts.

- ◆ **Majority argument:** Justice O’Connor wrote: “The Youngstown School Board fairly describes H.B. 70 as allowing an academic-distress commission to remove nearly all the power and authority from a city school board and to place that authority in a chief executive officer under the circumstances contemplated by the law. But Article VI, Section 3 does not prohibit this action, for the reason we recognized in *Ohio Congress of Parents & Teachers*, 111 Ohio St.3d 568, 2006-Ohio-5512, 857 N.E.2d 1148, at ¶ 47: the constitutional provision requires that a city’s electors be able to decide the number of members of and the organization of a school board but does not require that any specific power or authority be vested in the school board. Accordingly, to the extent that H.B. 70 allows a city’s electorate to ‘determine for itself the number of members and the organization of the district board of education,’ it does not violate Article VI, Section 3 of the Ohio Constitution.” (*Youngstown City School Dist. Bd. of Edn. v. State*, Slip Opinion No. 2020-Ohio-2903, 13 (Ohio 2020))
- ◆ **Justice Kennedy’s argument concurring in part and dissenting in part:** Justice Kennedy wrote: “Because I agree with the majority that the enactment of 2015 Am.Sub.H.B. No. 70 (“H.B. 70”) violates neither the three-consideration rule articulated in Article II, Section 15(C) of the Ohio Constitution nor the right of voters to decide the number of members and the organization of the district board of education as guaranteed by Article VI, Section 3, I join the judgment affirming the judgment of the Tenth District Court of Appeals. I disagree with the lead opinion’s analysis regarding Article II, Section 15(C), however, because in my view, that provision is directory only and not enforceable in the courts. For this reason, I concur in judgment only with regard to that part of the lead opinion.” (*Youngstown City School Dist. Bd. of Edn. v. State*, Slip Opinion No. 2020-Ohio-2903, 14 (Ohio 2020))
- ◆ **Justice French’s concurring argument:** “ I write separately, however, because I believe that it is time to overrule our flawed test in *Hoover v. Franklin Cty. Bd. of Commrs.*, 19 Ohio St.3d 1, 482 N.E.2d 575 (1985), for determining whether a legislative enactment violates the three-consideration rule in Article II, Section 15(C) of the Ohio Constitution. While I respect the principles of stare decisis, it is time to overrule *Hoover* because it was wrongly decided, it presents a rule that defies practical workability, and abandoning it would not create an undue hardship for those who have relied upon it.” (*Youngstown City School Dist. Bd. of Edn. v. State*, Slip Opinion No. 2020-Ohio-2903, 20 (Ohio 2020))
- ◆ **Justice Donnelly’s dissenting argument:** Justice Donnelly wrote: “Today, a majority of the court discards the three-consideration

rule set forth in the Constitution and accepts in its place the far less bothersome rule of one-and-done. In an egregious display of constitutional grade inflation, the majority gives passing marks to an act that was not considered three times by either house.” (*Youngstown City School Dist. Bd. of Edn. v. State*, Slip Opinion No. 2020-Ohio-2903, 24 (Ohio 2020))

- ◆ **Justice Stewart’s dissenting argument:** Justice Stewart wrote: “A majority of this court has decided that the amendments made to 2015 Am.Sub.H.B. No. 70 (“H.B. 70”) during its consideration by the General Assembly do not violate the requirement in the Ohio Constitution that a bill must be considered by each house of the General Assembly on three separate days. This decision is a complete abdication of this court’s responsibility as the guardian of the Constitution.” (*Youngstown City School Dist. Bd. of Edn. v. State*, Slip Opinion No. 2020-Ohio-2903, 44 (Ohio 2020))

PENNSYLVANIA SUPREME COURT

Justices							
	Christine Donohue	David N. Wecht	Kevin M. Dougherty	Max Baer	Debra Todd	Sallie Mundy	Thomas Saylor
Confidence Score	Strong Democrat	Strong Democrat	Strong Democrat	Mild Democrat	Strong Democrat	Mild Republican	Mild Republican
Opinion Partners						✓	✓
Dissenting Minority							
Determining Majority							
Lone Dissenter						✓	

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **116**
- ▶ Percentage of cases with a unanimous ruling: **43.1% (50)**
- ▶ Justice most often writing the majority opinion: **Justices Saylor and Donohue (20)**
- ▶ Per curiam decisions: **0**
- ▶ Concurring opinions: **62**
- ▶ Justice with most concurring opinions: **Justice Wecht (26)**
- ▶ Dissenting opinions: **46**

- ▶ Justice with most dissenting opinions: **Justice Saylor (13)**

COURT CONTENTION

The Pennsylvania Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 84 cases, which was 72.4 percent of the time the court issued a ruling. At least one justice dissented in 66 cases, which was 56.9 percent of the time.

Opinion partners

The two justices who allied most often in the majority were Justices Baer and Wecht, who were in the majority together in 85 of the 116 cases heard by the Pennsylvania Supreme Court in 2020, which was 73.3 percent of the time. In our *Ballotpedia Courts: State Partisanship* study, Baer recorded a Mild Democratic Confidence Score and Wecht recorded a Strong Democratic Confidence Score.

The two justices in the majority together second most frequently were justices Todd and Wecht who were in the majority together 70 times, which was 60.3 percent of the time. In our *Ballotpedia Courts: State Partisanship* study, Wecht and Todd both recorded Strong Democratic Confidence Scores.

The two justices who allied with one another most often in dissent were Justices Mundy and Saylor. Mundy and Saylor dissented together 14 times, which was 35.9 percent of all cases with dissents. In our *Ballotpedia Courts: State Partisanship* study, Mundy recorded a Mild Republican Confidence Score and Saylor recorded a Strong Republican Confidence Score.

Dissenting minority

In 2020, the Pennsylvania Supreme Court decided five cases 4-3. No three justices on the Pennsylvania Supreme Court dissented together with regularity. Justice Saylor dissented in four of the five split decisions, more than any other justice. Justices Mundy and Donohue dissented in three of those cases.

Determining majority

Of the five cases decided by split decision in 2020, no justice was in the majority in all five of the split decisions. Justices Dougherty and Todd were in the majority four times each, which was more frequently than their colleagues. In each of the split decisions there was a different majority.

Lone dissenter

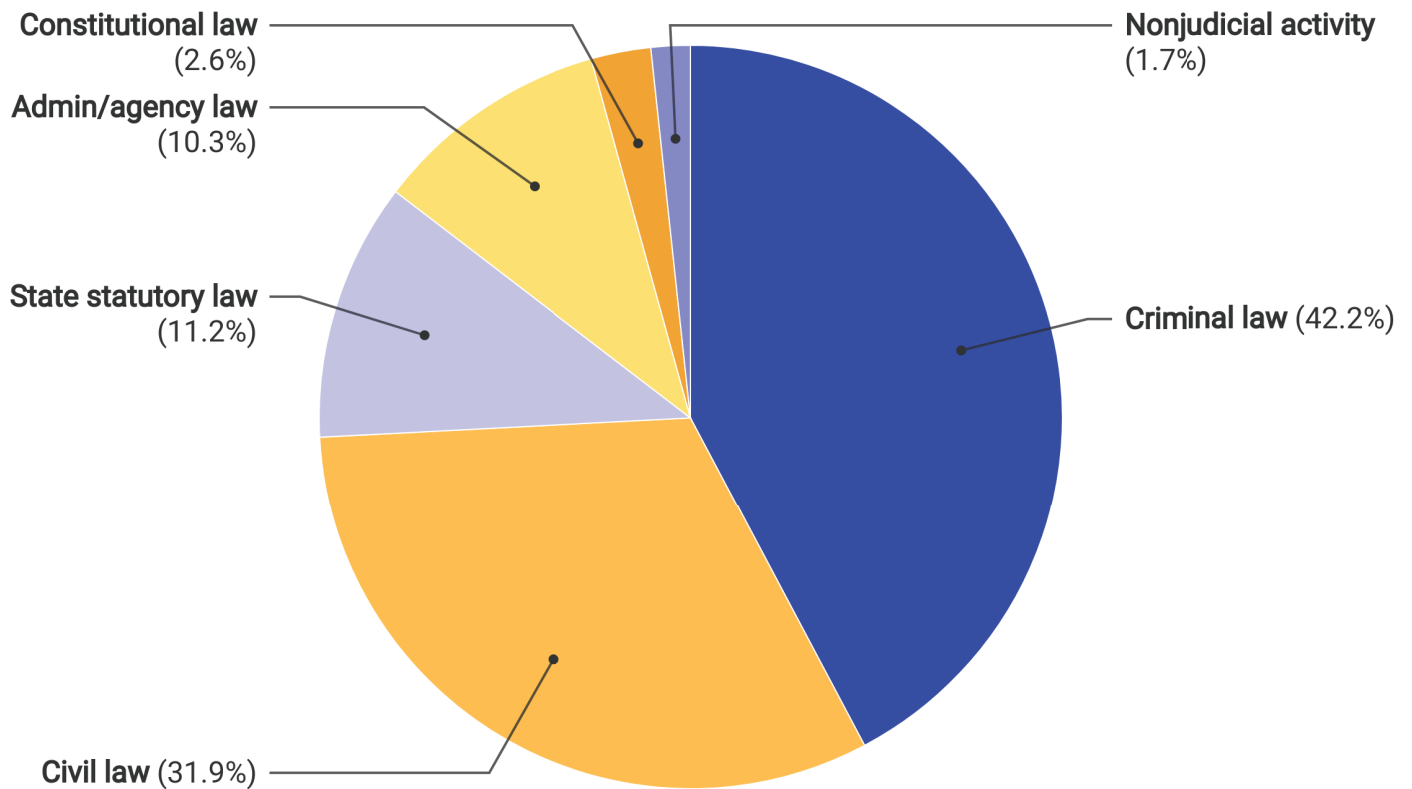
In 2020, Justice Mundy dissented alone five times, which was more than any other justice. There was a lone dissenter in 14 cases. Justice Dougherty was the lone dissenter second most frequently, dissenting alone four times in 2020.

COURT JURISDICTION

The Pennsylvania Supreme Court has original but not exclusive jurisdiction in cases of habeas corpus, mandamus, and quo warranto. It hears discretionary

appeals from the Pennsylvania Superior Court and the Pennsylvania Commonwealth Court, and it hears certain direct appeals from the Pennsylvania Court of Common Pleas. The court can assume jurisdiction over any case in the Pennsylvania court system.

Case types decided by Pennsylvania Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Pennsylvania Supreme Court in 2020 were criminal cases. Of the 116 cases it heard, 49 were criminal cases, which was 42.2 percent of its caseload. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Pennsylvania Supreme Court heard 37 civil cases in 2020, which was 31.9 percent of its total caseload for the year.

The third most common cases that reached the court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Pennsylvania Supreme Court heard 13 state statutory cases in 2020, which was 11.2 percent of its total caseload for the year.

PROMINENT CASES

Pennsylvania v. Alexander

Justice	Christine Donohue	David N. Wecht	Kevin M. Dougherty	Max Baer	Debra Todd	Sallie Mundy	Thomas Saylor
Pennsylvania v. Alexander	Writing for the majority	Joining majority opinion	Writing a dissenting opinion	Writing a concurring opinion	Joining majority opinion	Writing a dissenting opinion	Writing a dissenting opinion

- ◆ **Contention:** Justice Donohue wrote the majority opinion. She was joined by Justices Todd and Wecht. Justices Dougherty, Mundy, and Saylor wrote separate dissenting opinions. Justice Wecht wrote a concurring opinion.
- ◆ **Summary:** A police officer and his partner stopped a vehicle driven by Alexander. The officers smelled marijuana, and Alexander admitted that he and his passenger had just smoked a blunt. The officers put Alexander in the police car and searched the vehicle. They found a box that only a key on Alexander's keychain could open. Opening the box, the officers found and charged Alexander with possession of heroin. At trial Alexander was convicted with possession with intent to deliver. The Superior Court affirmed, denying Alexander's claim that the officers (1) lacked probable cause to search the vehicle and (2) needed a warrant to search the lockbox. The question presented to the Pennsylvania Supreme Court was whether the automobile exception to the Fourth Amendment established without limitation in *Commonwealth v. Gary* was consistent with Article I, Section 8 of the Pennsylvania Constitution. The majority ruled that in order to search an automobile without a warrant there must be both probable cause and exigent circumstances.
- ◆ **Majority argument:** Justice Donohue wrote: "As a result of today's decision, we return to the pre-Gary application of our limited automobile exception under Article I, Section 8 of our Constitution, pursuant to which warrantless vehicle searches require both probable cause and exigent circumstances; 'one without the other is insufficient.' Luv, 735 A.2d at 93. 'This dual requirement of probable cause and exigency is an established part of our state constitutional jurisprudence.' Hernandez, 935 A.2d at 1280. As to the renewed application of this principle, we share the confidence expressed by Justice Todd in her dissenting opinion in Gary, specifically that police officers are 'eminently capable as trained professionals of making the basic assessment of whether it is reasonably practicable for them to seek a warrant, under all of the circumstances existing at the time they wish to search an automobile.' Gary, 91 A.3d at 159 (Todd, J., dissenting)." (*Pennsylvania v. Alexander (Majority)*, No. 30 EAP 2019, 52 (Pa. 2020))
- ◆ **Dougherty's dissenting argument:** Justice Dougherty wrote: "'What we can decide, we can undecide.' Kimble v. Marvel Entm't,

LLC, 576 U.S. 446, 465 (2015). This much is clear. But whether we should undo a given precedent is a different matter entirely, and ‘stare decisis teaches that we should exercise that authority sparingly.’ *Id.* In that spirit, ‘we have recognized that changing course demands a special justification — over and above the belief that [a] precedent was wrongly decided[.]’ *Commonwealth v. Reid*, 235 A.3d 1124, 1168 (Pa. 2020). Because I believe the majority does not identify a special justification for overruling *Commonwealth v. Gary*, 91 A.3d 102 (Pa. 2014) (plurality), wherein a majority of this Court adopted the federal automobile exception to the warrant requirement, I respectfully dissent.” (*Pennsylvania v. Alexander (Dissenting Opinion)*, No. 30 EAP 2019, 1 (Pa. 2020))

- ◆ **Mundy’s dissenting argument:** Justice Mundy wrote: “I respectfully dissent from the majority’s opinion, as I would decline to overrule this Court’s decision in *Commonwealth v. Gary*, 91 A.3d 102 (Pa. 2014). In my opinion, the majority declines to honor the tenets of stare decisis, instead opting to impart its desired outcome in the face of a clear rule of law. Further, I do not endorse the Edmunds analysis adopted by the majority, as I would continue to follow the analysis offered by the lead opinion in *Gary*.” (*Pennsylvania v. Alexander (Dissenting Opinion)*, No. 30 EAP 2019, 1 (Pa. 2020))
- ◆ **Saylor’s dissenting argument:** Justice Saylor wrote: “I respectfully dissent, since I wouldn’t overrule the holding of *Commonwealth v. Gary*, 625 Pa. 183, 91 A.3d 102 (2014) (plurality opinion), which was supported by a majority of Justices including myself. See *id.* at 243, 91 A.3d at 1138-39 (Saylor, J., concurring).” (*Pennsylvania v. Alexander (Dissenting Opinion)*, No. 30 EAP 2019, 1 (Pa. 2020))
- ◆ **Baer’s concurring argument:** Justice Baer wrote: “I join the majority opinion in full. Consistent with my dissenting posture in *Commonwealth v. Gary*, 91 A.3d 102 (Pa. 2014) (Opinion Announcing the Judgment of the Court), I agree with the majority that this Court’s adoption of the federal automobile exception to the warrant requirement is inconsistent with Article I, Section 8 of the Pennsylvania Constitution, which, under the circumstances presented, affords greater protection to our citizens than its federal counterpart. I write separately only to reconcile my support of the majority’s rejection of *Gary* with my fervent belief in the adherence to stare decisis.” (*Pennsylvania v. Alexander (Concurring Opinion)*, No. 30 EAP 2019, 1 (Pa. 2020))

Nicole B. v. Philadelphia Sch. Dist., et al.

Justice	Christine Donohue	David N. Wecht	Kevin M. Dougherty	Max Baer	Debra Todd	Sallie Mundy	Thomas Saylor
Nicole B. v. Philadelphia Sch. Dist., et al.	Joined dissenting opinion	Wrote dissenting opinion	Joining majority opinion	Joining majority opinion	Joining majority opinion	Joining majority opinion	Joined dissenting opinion

- ◆ **Contention:** Justice Todd wrote the majority opinion. She was joined by Justices Baer, Dougherty, and Mundy. Justice Wecht wrote a dissenting opinion and was joined by Donohue and Saylor.
- ◆ **Summary:** The appellant's eight-year-old son was bullied and eventually sexually assaulted by three of his male fourth grade classmates in a bathroom at his public elementary school. Appellant's son endured both verbal and physical harassment in the two months leading up to the sexual assault. Both appellant and her son reported the harassment to his teacher and school administrators to no avail. After the sexual assault appellant withdrew her son from the school. Over two years later the appellant filed an administrative complaint with the Human Relations Commission against the Philadelphia School District asserting claims of discrimination on the basis of gender and race. The commission rejected the appellant's complaint as untimely because it was filed after the 180-day limit. Appellant filed suit in the District Court of Common Pleas, reiterating her claims. The school argued that she failed to exhaust her administrative remedies because her complaint was untimely, and thus the court did not have jurisdiction. The supreme court set out to determine whether Pennsylvania's Minority Tolling Statute applied to the untimely complaint filed by appellant. The court found that the equitable tolling provision applied to a minor whose parent failed to file an administrative complaint within the statute of limitations.
- ◆ **Majority argument:** Justice Todd wrote: "we determine that the PHRA's equitable tolling provision is ambiguous, and, after consideration of the occasion and necessity for the PHRA, its goals and objects, and the consequences of including minority tolling as part of equitable tolling, we hold that, under its equitable tolling provision, the PHRA's limitation periods may be tolled during a child's period of minority. Like the Supreme Court of New Jersey in addressing its wrongful death statute in *Lafage, supra*, we do not believe that our legislature intended minority status to bar children who have suffered discrimination from seeking the protections and benefits of the PHRA" (*Nicole B. v. Philadelphia Sch. Dist., et al. (Majority)*, No. 16 EAP 2019, 22 (Pa. 2020))
- ◆ **Dissenting argument:** Justice Wecht wrote: "Although the failure to timely file a complaint with the PHRC ordinarily would preclude a complainant from subsequently pursuing litigation in the courts of common pleas, *Clay v. Advanced Computer Applications, Inc.*, 559

A.2d 917, 918-20 (Pa. 1989), those time limits are ‘subject to waiver, estoppel and equitable tolling,’ 43 P.S. § 962(e). Today’s Majority concludes that the PHRA’s equitable tolling provision subsumes the age of minority, such that a person alleging discrimination as a child need not file a complaint within the law’s 180-day time limits. Because I do not share the Majority’s view that traditional equitable tolling principles inherently encompass tolling during the period of minority, I respectfully dissent.” (*Nicole B. v. Philadelphia Sch. Dist., et al. (Dissenting Opinion)*, No. 16 EAP 2019, 1-2 (Pa. 2020))

PA Dem Party. v. Boockvar, et al : Boockvar

Justice	Christine Donohue	David N. Wecht	Kevin M. Dougherty	Max Baer	Debra Todd	Sallie Mundy	Thomas Saylor
PA Dem Party. v. Boockvar, et al : Boockvar (majority)	Writing an opinion concurring in part and dissenting in part	Writing a concurring opinion	Agreeing with majority opinion	Writing the majority opinion	Agreeing with majority opinion	Joining Saylor's opinion concurring in part dissenting in part	Writing an opinion concurring in part and dissenting in part

- ◆ **Contention:** Justice Baer wrote the majority opinion. He was joined by Justices Todd and Dougherty. Justice Wecht wrote a concurring opinion. Justice Saylor wrote an opinion **concurring in part and dissenting in part** and was joined by Justice Mundy. Justice Donohue wrote an opinion **concurring in part and dissenting in part** and partially joined Saylor’s opinion.
- ◆ **Summary:** The General Assembly of Pennsylvania enacted Act 77 which created the opportunity for all qualified electors to vote by mail without requiring voters to demonstrate their absence from the voting district on election day. The PA Democratic Party and some Democratic elected officials filed suit in the Commonwealth Court, asking for review and relief relating to five issues of statutory interpretation of Act 77 and the PA Election Code.⁵ They asked the Commonwealth Court for injunctive relief “so as to protect the franchise of absentee and main-in voters.” The Pennsylvania Supreme Court exercised jurisdiction to clarify those five counts prior to the 2020 election. The court found that the postal service likely could not return the mail-in ballots within the time period

⁵ The Five issues are as follows:

1. declaratory relief to confirm Act 77 permitted local election boards “to provide secure, easily accessible locations . . . where appropriate, mobile or temporary collection sites, and/or drop-boxes for the collection of mail-in ballots”
2. an injunction to “lift the deadline in the Election Code across the state to allow any ballot postmarked by 8:00 p.m. on Election Night to be counted if it is received by the Boards” by 5:00 p.m. on Tuesday, November 10 or to allow boards’ discretion to extend deadlines to 21 days after the voter’s ballot is mailed by the county
3. a requirement that the Board expeditiously notify electors whose mail-in or absentee ballots were incorrectly completed and offer an opportunity to fix minor facial defects until the November 10, 2020 deadline
4. a declaration under Act 77 that the Boards must place ballots submitted without the secrecy envelope—known as “naked ballots”—into a proper envelope and count them instead of invalidating them
5. a declaration that the “Election Code’s poll watcher residency requirement does not violate the United States Constitution’s First and Fourteenth Amendments, its Equal Protection Clause, or the Equal Protection and Free and Equal Elections Clauses of the Pennsylvania Constitution.” See [Harvard Law Review Blog: Pennsylvania Democratic Party v. Boockvar](#).

specified in state election code. The court concluded that it could act to prevent the disenfranchisement of voters and enforce the Free and Equal Elections Clause in the Pennsylvania Constitution. Thus, it approved the injunction allowing a three-day extension of the absentee and mail-in ballot received-by deadline so that ballots sent via the United States Postal Service, postmarked by 8:00 p.m. on Election Day, and received by the county boards of election on or before 5:00 p.m. on November 6, 2020 would be counted.

- ◆ **Majority argument:** Justice Baer wrote: “Based on our disposition of all of the claims set forth above, we grant relief on the claims set forth in Counts I, II, and V of the Democratic Party’s petition for review as follows and hold that: (Count I) the Election Code permits county boards of election to collect hand-delivered mail-in ballots at locations other than their office addresses including drop-boxes as indicated herein, see *supra*. at 20 n. 15; (Count II) a three-day extension of the absentee and mail-in ballot received-by deadline is adopted such that ballots mailed by voters via the United States Postal Service and postmarked by 8:00 p.m. on Election Day, November 3, 2020, shall be counted if they are otherwise valid and received by the county boards of election on or before 5:00 p.m. on November 6, 2020; ballots received within this period that lack a postmark or other proof of mailing, or for which the postmark or other proof of mailing is illegible, will be presumed to have been mailed by Election Day unless a preponderance of the evidence demonstrates that it was mailed after Election Day; (Count V) the poll watcher residency requirement set forth in Section 2687(b) of the Election Code, 25 P.S. § 2687(b), is constitutional. Also, for the reasons set forth herein, we deny the relief sought in Count III and IV of the petition for review.” (*PA Dem Party. v. Boockvar, et al : Boockvar (Majority)*, No. 133 MM 2020, 63 (Pa. 2020))
- ◆ **Concurring argument:** Justice Wecht wrote: “I join the learned Majority’s Opinion in full. ‘No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.’ As the Supreme Court of the United States has explained, the right to vote comprises not just ‘the right of qualified voters within a state to cast their ballots,’ but also the right ‘to have their ballots counted.’ In our Commonwealth, the franchise is guaranteed by the Free and Equal Elections Clause of the Pennsylvania Constitution, which commands: ‘Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.’” (*PA Dem Party. v. Boockvar, et al : Boockvar (Concurring Opinion)*, No. 133 MM 2020, 3-4 (Pa. 2020))
- ◆ **Saylor’s argument concurring in part and dissenting in part:** Justice Saylor Wrote: “although the majority decision appears to be designed to accommodate only ballots actually mailed on Election Day or before, the majority does not so much as require a postmark.

Particularly in combination with the allowance of drop boxes, this substantially increases the likelihood of confusion, as well as the possibility that votes will be cast after 8:00 p.m. on Election Day, thus greatly undermining a pervading objective of the General Assembly.” (*PA Dem Party. v. Boockvar, et al : Boockvar (Concurring and Dissenting Opinion)*, No. 133 MM 2020, 4 (Pa. 2020))

- ◆ **Donohue’s argument concurring in part and dissenting in part:**
Justice Donohue wrote: “Petitioners base their request for relief on the infringement of the rights afforded by Article 1, Section 5 of the Pennsylvania Constitution, our Free and Equal Elections Clause. In my mind, the issue must be framed as an as-applied challenge, during the duration of the COVID-19 public health crisis and current USPS service standards, to the constitutionality of Sections 3150.12a(a) and 3150.16(c) of Act 77, which respectively set the last date on which voters may request mail-in ballots and the deadline for when ballots must be received by county boards of elections. With deference to my learned colleagues, I believe that this issue should have been decided in a case in this Court’s original jurisdiction under Act 77, Michael Crossey et al, v. Kathy Bookckvar [sic], et al., No. 108 MM 2020, where the claims likewise were based on the Free and Equal Elections clause and in which this Court ordered the creation of a complete evidentiary record to determine whether the petitioners there had met their high burden to prove the existence of a constitutional injury entitling them to relief.” (*PA Dem Party. v. Boockvar, et al : Boockvar (Concurring and Dissenting Opinion)*, No. 133 MM 2020, 3-4 (Pa. 2020))

WASHINGTON SUPREME COURT

									
Confidence Score	Mild Democrat	Indeterminate	Mild Democrat	Mild Democrat	Mild Democrat	Mild Democrat	Mild Democrat	Mild Democrat	Mild Democrat
Opinion Partners			✓						✓
Dissenting Minority	✓		✓		✓				✓
Determining Majority ⁶		✓					✓	✓	
Lone Dissenter									

SUMMARY

- ▶ Number of justices: **9**
- ▶ Number of cases: **66**
- ▶ Percentage of cases with a unanimous ruling: **59.1%**
- ▶ Justice most often writing the majority opinion: **Justice Gonzalez and Madsen**
- ▶ Per curiam decisions: **1**
- ▶ Concurring opinions: **15**
- ▶ Justice with most concurring opinions: **Justice Gonzalez (5)**
- ▶ Dissenting opinions: **24**
- ▶ Justice with most dissenting opinions: **Justice Madsen (7)**

COURT CONTENTION

The Washington Supreme Court was one of the most contentious courts in the nation in 2020. At least one justice disagreed with the majority's ruling in 39 cases, which was 59.1 percent of the time the court issued a ruling. At least one justice dissented in each of those cases.

Opinion partners

The two pairs of justices who allied most often in the majority were Justices Johnson and Owens and Justices Owens and Stephens. Both of these pairs of opinion partners allied in the majority together 54 times. In our *Ballotpedia Courts: State Partisanship* study, Owens recorded an indeterminate partisan

⁶ The fifth member of the majority composed by Stephens, Madsen, Johnson, and Owens varied throughout the year, as different justices filled vacancies.

Confidence Score. Justice Johnson recorded a Mild Democratic Confidence Score. Justice Stephens recorded a Mild Democratic Confidence Score.

The two justices who allied with one another most often in dissent were Justices González and Yu. González and Yu dissented together seven times, which was 30.4 percent of all cases with dissents. González only dissented in one decision in which Yu did not also dissent; in that decision Yu wrote an opinion concurring in part and dissenting in part. In our *Ballotpedia Courts: State Partisanship* study, González recorded a Mild Democratic Confidence Score, and Yu recorded a Mild Democratic Confidence Score.

Dissenting minority

The group of four justices who allied most often in dissent were Justices Montoya-Lewis, McCloud, González, and Yu. Montoya-Lewis, McCloud, González, and Yu dissented in the same case three times, which was 66.7 percent of all cases decided by split decision.

Determining majority

The Washington Supreme Court decided six cases 5-4 in 2020. No justice was in the majority in all six of those cases. Justices Owens and Stephens were in the majority in five of the six cases decided by split decision in 2020.

The four justices who most frequently allied in the majority were Justices Stephens, Madsen, Johnson and Owens. The fifth member of the majority composed by Stephens, Madsen, Johnson, and Owens varied throughout the year, as different justices filled vacancies. Justice Wiggins joined them in the majority three times, substitute Justice Fairhurst joined them in the majority once, Justice Worswich joined them in the majority once, and Justice Whitener joined them in the majority once.

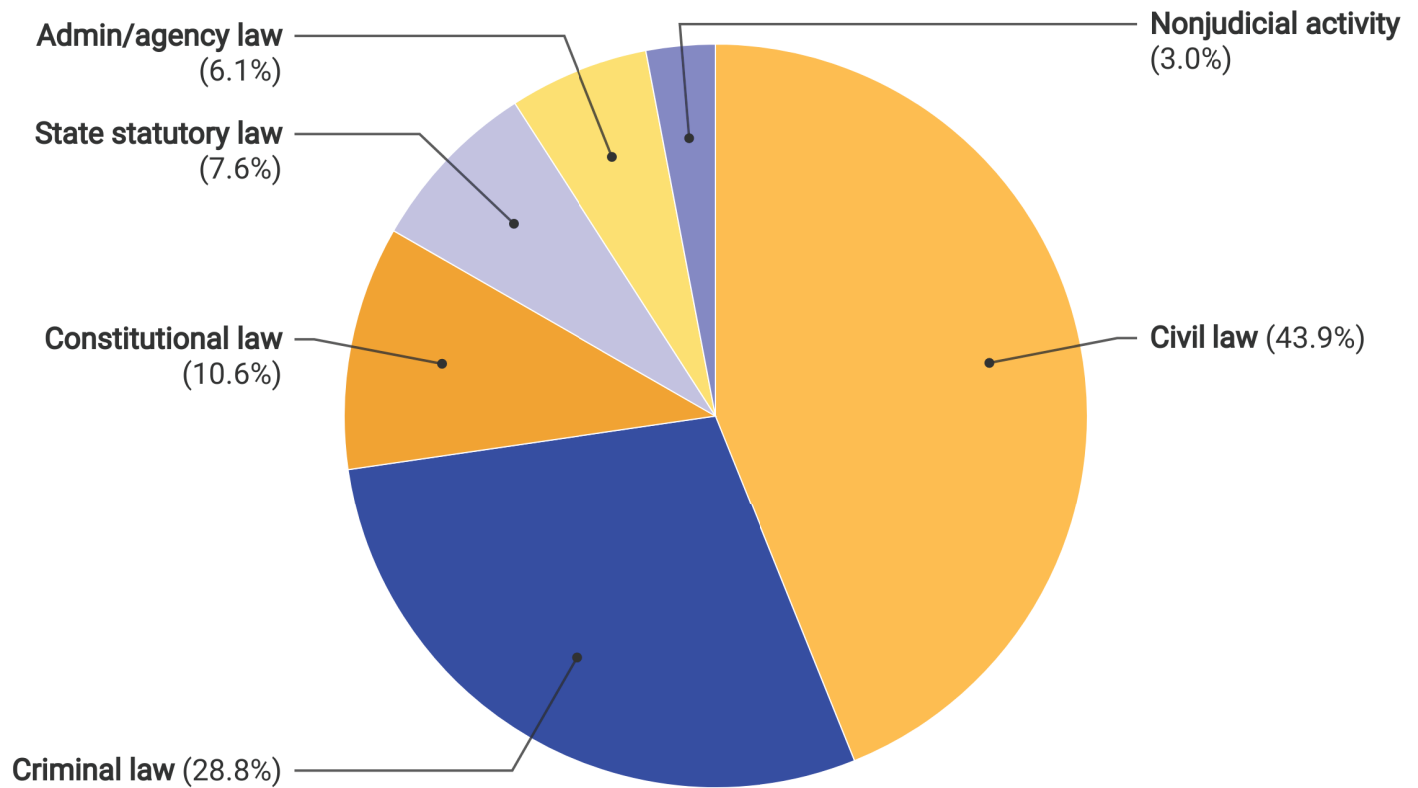
Lone dissenter

In 2020, Justice Madsen dissented alone two times, which was more than any other justice. There was a lone dissenter in two cases. Justices McCloud and Johnson were each lone dissenters once in 2020.

COURT JURISDICTION

The Washington Supreme Court has original jurisdiction in habeas corpus, quo warranto and mandamus as to all state officers, and appellate jurisdiction in all actions and proceedings. Its appellate jurisdiction shall not extend to civil actions at law for the recovery of money or personal property when the original amount in controversy, or the value of the property does not exceed the sum of two hundred dollars (\$200) unless the action involves the legality of a tax, impost, assessment, toll, municipal fine, or the validity of a statute.

Case types decided by Washington State Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Washington Supreme Court in 2020 were civil cases. Of the 66 cases it heard, 28 were civil cases, which was 43.9 percent of its caseload. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal cases. A criminal case involves a final criminal appeal before the court of last resort. The Washington Supreme Court heard 19 criminal cases in 2020, or 28.8 percent of its total caseload for the year.

The third most common cases that reached the court were Constitutional cases. A constitutional case is one that involves the violation of a right expressly protected by the Constitution of the United States. The Washington Supreme Court heard seven Constitutional cases in 2020, or 10.6 percent of its total caseload for the year. Prominent cases

PROMINENT CASES

Calvin v. Inslee

Justice	Sheryl McCloud	Susan Owens	Steven González	G. Helen Whitener	Raquel Montoya-Lewis	Charles W. Johnson	Debra Stephens	Barbara A. Madsen	Mary Yu
Calvin v. Inslee (Majority and Dissent)	Joining González's dissent	Joining majority opinion	Writing dissenting opinion	Not participating	Joining González's dissent	Joining majority opinion	Joining majority opinion	Joining majority opinion	Joining González's dissent

- ◆ **Contention:** Justice Stephens wrote the majority opinion. She was joined by Justices Madsen, Johnson, Owens, and Worswich, who filled in for Justice Whitener. Justice González wrote a dissenting opinion and was joined by Justices Montoya-Lewis, McCloud, and Yu.
- ◆ **Summary:** Five prisoners sued the Department of Corrections seeking a writ of mandamus to direct Governor Jay Inslee (D) and Secretary Sinclair (D) to immediately release about 13,000 at-risk inmates amid the COVID-19 pandemic. Petitioners argued that constitutional and statutory sources impose a duty on the Governor and Secretary to take all “reasonable steps to protect the inmate population from COVID-19.” The Washington Supreme Court found that no matter how dire the emergency, there was no duty to release prisoners, because doing so would violate separation of powers principles. The Court explained that a writ of mandamus is often forbidden because it allows a court to command another governmental branch to take a particular action. Additionally, because respondents claim release is the only reasonable step, and no law commands the Governor or Secretary to release inmates, the Court would be exceeding its constitutional authority in requiring specific actions not required by law.
- ◆ **Majority argument:** Justice Stephens wrote: “Consistent with our limited authority to compel only mandatory, nondiscretionary action by another branch of government, we deny the petitioners’ claims for extraordinary judicial relief. We are not indifferent to the serious dangers faced by petitioners and other inmates at heightened risk of contracting COVID-19 in Washington’s correctional facilities, but how the governor and secretary address these dangers and also protect the public necessarily involves the exercise of discretionary authority that we cannot direct. Even if we could do so, nothing before us suggests how we would succeed where those charged with running Washington’s correctional system have failed. Today’s decision resolves these claims on the facts before us and does not excuse the governor and secretary from their continuing obligations toward these petitioners and other inmates. At the same time, we will not excuse ourselves from our obligation to respect the discretion vested in another branch of government and uphold the constitutional separation of powers.” (*Calvin et al. v. Inslee et al.*, No.

98317-8, 25 (Wash. 2020))

- ◆ **Dissenting argument:** Justice González wrote: “The courts have a role to play in protecting individual rights in times of emergency. It is true that we must not usurp the essential functions of another branch of government. But we too have an essential function: to say what the law is, to say whether the law has been violated, and to order relief when relief is warranted. If we are to fulfill our essential judicial function, we must decide whether challenged acts or omissions violate the constitution, even when making that decision is difficult. And we must learn from our history—a history which shows that in times of distress, courts all too often defer to the executive branch and sacrifice precious liberties, especially for our most vulnerable. In *Korematsu v. United States*, for example, amidst fear in a time of war, the judicial branch sanctioned a repulsive, unjustified racial classification that led to enormous suffering authorized by an executive order. 323 U.S. 214, 215, 65 S. Ct. 193, 89 L. Ed. 194 (1944), abrogated by *Trump v. Hawaii*, ___ U.S. ___, 138 S. Ct. 2392, 201 L. Ed. 2d 775 (2018); see *Korematsu v. United States*, 584 F. Supp. 1406 (N.D. Cal. 1984) (granting a postconviction writ of coram nobis 40 years later vacating Mr. Korematsu’s conviction). This tragic history stands as a caution that in times of crisis, the judiciary must not invoke separation of powers to avoid subjecting government actions to close scrutiny and accountability. Because the majority has abdicated this responsibility with its near-summary dismissal of the petitioners’ claims, I dissent.” (*Colvin et al. v. Inslee et al.*, No. 98317-8, 1-2 (Wash. 2020))

Ass’n of Wash. Bus. v. Dep’t of Ecology

Justice	Sheryl McCloud	Susan Owens	Steven González	Charles Wiggins	Mary Fairhurst	Charles W. Johnson	Debra Stephens	Barbara A. Madsen	Mary Yu
Ass’n of Wash. Bus. v. Dep’t of Ecology (Majority and Dissent)	Joining majority opinion	Writing a dissenting opinion	Joining Owen’s dissent	Joining Owen’s dissent	Joining majority opinion	Joining majority opinion	Writing majority opinion	Joining majority opinion	Joining Owen’s dissent

- ◆ **Contention:** Justice Stephens wrote the majority opinion. She was joined by Justices McCloud, Madsen, Johnson, and Fairhurst. Justice Owens wrote a dissenting opinion and was joined by Justices González, Yu, and Wiggins.
- ◆ **Summary:** The Washington Department of Ecology created the Washington Clean Air Rule in 2016 seeking to regulate indirect emissions of greenhouse gasses from business and utilities. The rule created emissions standards for three types of businesses: stationary sources of emissions, petroleum producers and importers, and natural gas distributors. The rule required these businesses to reduce their greenhouse gas emissions by 1.7 percent each year using two methods: modifying their operations to reduce their emissions and obtaining emission reduction units. The court ruled

that the Department of Ecology exceeded its statutory authority under the clean air act. The court noted that the legislature should determine the scope of the Department of Ecology's authority to regulate greenhouse gasses.

- ◆ **Majority argument:** Justice Stephens wrote: "By the Act's plain terms, emission standards are designed to limit the release of air contaminants by regulating direct emitters. The Act provides no authority for Ecology to use emission standards to regulate businesses and utilities that merely distribute products that generate greenhouse gases when they are combusted somewhere down the line. Left unchecked, Ecology's expansive interpretation of its own authority would sweep many newly branded "indirect emitters" into the regulatory web. We are confident that if the State of Washington wishes to expand the definition of emission standards to encompass "indirect emitters," the legislature will say so. In the meantime, Ecology may not claim more authority than the legislature has granted in the Act." (*Ass'n of Wash. Bus. v. Dep't of Ecology*, No. 95885-8, 25 (Wash. 2020))
- ◆ **Dissenting argument:** Justice Owens wrote: "The legislature has authorized the Department to regulate both direct and indirect emitters. But the majority's conclusion not only improperly restricts the Department's authority to regulate indirect emitters but also contradicts the broad authority the legislature provided to the Department to reduce such emissions in our state. Because the Rule properly constitutes an emission standard as applied to natural gas distributors and petroleum product producers and importers, the Department did not exceed its statutory authority in promulgating the Rule, which should be held valid in whole. Therefore, I respectfully dissent and would reverse the trial court's ruling." (*Ass'n of Wash. Bus. v. Dep't of Ecology*, No. 95885-8, 8 (Wash. 2020))

Washington v. Grocery Mfrs. Ass'n

Justice	Sheryl McCloud	Susan Owens	Steven González	Charles Wiggins	Raquel Montoya-Lewis	Charles W. Johnson	Debra Stephens	Barbara A. Madsen	Mary Yu
Washington v. Grocery Mfrs. Ass'n (Majority, Concurrence and Dissent)	Writing an opinion concurring in part and dissenting in part	Joining majority opinion	Joining majority opinion	Not participating	Joining majority opinion	Joining majority opinion	Joining majority opinion	Joining majority opinion	Writing majority opinion









- ◆ **Contention:** Justice Yu wrote the majority opinion. She was joined by Justices Montoya-Lewis, Stephens, González, Owens, and Fairhurst. Justice Johnson wrote an opinion concurring in part and dissenting in part and was joined by Justice Madsen. Justices Johnson and McCloud wrote separate opinions concurring in part and dissenting in part.
- ◆ **Summary:** In 2013 Washington voters rejected Initiative 522, which

would require labels on all packaged foods containing GMOs. The Grocery Manufacturers Association opposed state-level GMO labeling laws. Over the course of the election cycle, the Grocery Manufacturers Associations solicited \$14 million in contributions from member companies. They spent \$11 million on the “No on 522” political committee. The Grocery Manufacturers Association was not registered as a political committee and did not make reports to the Public Disclosure Commission. The state filed suit against the Grocery Manufacturers Association, alleging that they intentionally violated the Fair Campaign Practices Act (FCPA). A trial court agreed with the state and imposed a \$6 million base penalty and trebled the penalty to \$18 million. The Grocery Manufacturers Association argued that the act’s practices violated their first amendment right to free political speech. The supreme court determined that the act was consistent with the first amendment and they remanded the case to the court of appeals for consideration of whether the penalty imposed violated the excessive fines clauses of the federal and state constitutions.

- ◆ **Majority argument:** Justice Yu wrote: “GMA asks us to significantly curtail the application of the FCPA in ways that are not required by the statutory language, relevant precedent, or the state and federal constitutions. We decline to do so. We therefore affirm that GMA violated the FCPA and that the FCPA is constitutional as applied. We further hold that the word intentional has its ordinary meaning for purposes of FCPA violations and therefore reverse the Court of Appeals in part. Finally, we remand to the Court of Appeals for consideration of GMA’s excessive fines claim.” (*State v. Grocery Mfrs. Ass’n*, No. 96604-4, 40 (Wash. 2020))
- ◆ **Johnson’s argument concurring in part and dissenting in part:** Justice Johnson wrote: “Where I disagree is with the majority’s statutory interpretation of former RCW 42.17A.765(5) (2010) on the applicability of the trebling provision. On this issue, I would affirm the Court of Appeals’ statutory interpretation and vacate the trebled penalty. The majority remands to the Court of Appeals for resolution of the constitutional excessive fines issue, but before the constitutional claims can be addressed, the trial court must correct the penalty. The trial court erred by imposing a \$6 million base penalty, trebled to \$18 million, without properly considering all of the factors enumerated in Title 390 WAC, which the majority agrees should be considered. The portion of the trial court’s order setting the penalty should be vacated and this case remanded for the trial court to properly apply the factors under WAC 390-37-182(1), particularly the comparability factor.” (*State v. Grocery Mfrs. Ass’n*, No. 96604-4, 1 (Wash. 2020))
- ◆ **McCloud’s argument concurring in part and dissenting in part:** Justice McCloud wrote: “I agree with the majority that the Grocery Manufacturers Association (GMA) meets the statutory definition of ‘political committee’ under the Fair Campaign Practices Act

(FCPA), ch. 42.17A RCW. I also agree that the FCPA satisfies First Amendment requirements as applied to GMA and the Defense of Brands (DOB) account. U.S. CONST. amend. I. And I agree that the courts below failed to apply the Eighth Amendment's bar on excessive fines to the huge base and trebled penalties in this case. U.S. CONST. amend. VIII." (*State v. Grocery Mfrs. Ass'n*, No. 96604-4, 1 (Wash. 2020))

WISCONSIN SUPREME COURT

Justice	 Brian Hagedorn	 Patience Roggensack	 Ann Walsh Bradley	 Rebecca Bradley	 Rebecca Dallet	 Annette Ziegler	 Daniel Kelly ⁷	 Jill Karofsky
Confidence Score	Strong Republican	Indeterminate	Indeterminate	Mild Republican	Mild Democrat	Mild Republican	Strong Republican	Mild Democrat
Opinion Partners			✓		✓			
Dissenting Minority	✓	✓	✓		✓			
Determining Majority		✓		✓		✓	✓	
Lone Dissenter								

SUMMARY

- ▶ Number of cases: **89**
- ▶ Percentage of cases with a unanimous ruling: **59.6% (53)**
- ▶ Justice most often writing the majority opinion: **Justice Brian Hagedorn (8) and Justice Rebecca Dallet (8)**
- ▶ Per curiam decisions: **43**
- ▶ Concurring opinions: **27**
- ▶ Justice with most concurring opinions: **Justice Rebecca Bradley (6) and Justice Daniel Kelly (6)**
- ▶ Dissenting opinions: **49**
- ▶ Justice with most dissenting opinions: **Justice Brian Hagedorn (9), Justice Rebecca Bradley (9), and Justice Rebecca Dallet (9)**

⁷ Justice Kelly was on the court at the beginning of 2020, but ran for a retention election in spring 2020. Justice Karofsky ran against Kelly, won, and took his seat after the election.

COURT CONTENTION

In 2020 the Wisconsin Supreme Court was one of the most contentious courts in the country. At least one justice disagreed with the majority's ruling in 28 cases, which was 34.6 percent of the time the court issued a ruling. At least one justice dissented in 50 percent of non-per curiam cases.

Opinion partners

The two justices who allied with one another most often in dissent were Ann Walsh Bradley and Rebecca Dallet. Ann Walsh Bradley and Rebecca Dallet dissented together seven times, which was 54.5 percent of all cases with more than one dissent. Justice Ann Walsh Bradley only dissented in cases in which Dallet was also a dissenter in 2020. In our *Ballotpedia Courts: State Partisanship* study, Justice Dallet recorded a Mild Republican Confidence Score and Justice Ann Bradley recorded an Indeterminate Confidence Score. Justices Rebecca Bradley and Roggensack allied with one another in dissent four times, Rebecca Bradley and Daniel Kelly allied with one another in dissent five times, and Annette Zeigler and Patience Roggensack allied with one another in dissent three times in 2020.

Dissenting minority

In 2020, the Wisconsin Supreme Court decided twelve cases 4-3. The group of three justices who allied with one another most often in dissent were Brian Hagedorn, Ann Walsh Bradley, and Rebecca Dallet. Ann Walsh Bradley, Hagedorn, and Dallet dissented in the same case four times, which was 30 percent of all cases in which three justices dissented. In our *Ballotpedia Courts: State Partisanship* study Justice Hagedorn recorded a Strong Republican Confidence Score, Justice Ann Walsh Bradley recorded an Indeterminate Confidence Score and Justice Dallet recorded a Mild Democratic Confidence Score.

Determining majority

In six of the twelve 4-3 cases, Justices Roggensack, Rebecca Bradley, and Zeigler allied in the majority. In five of those cases Justice Kelly joined them. In our *Ballotpedia Courts: State Partisanship* study, Justice Roggensack recorded an Indeterminate Confidence Score, Justice Bradley Rebecca Bradley recorded a Mild Republican Confidence Score, Justice Zeigler recorded a Mild Republican Confidence Score, and Justice Kelly recorded a Strong Republican Confidence Score.

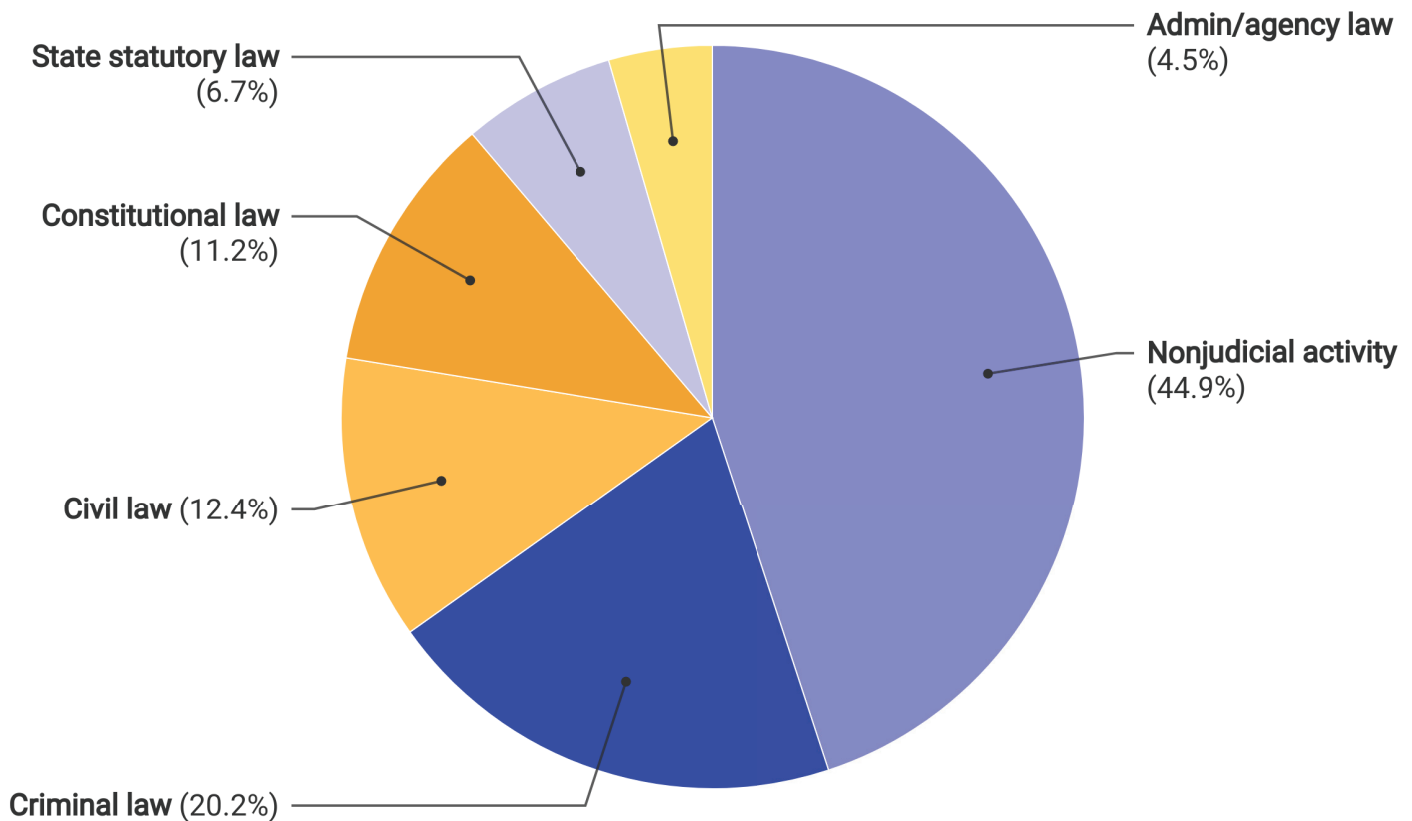
Lone dissenter

In 2020, Justices Dallet and Hagedorn dissented alone twice, which was more than any other justices on the Wisconsin Supreme Court. In seven cases heard by the Wisconsin Supreme Court in 2020 there was a lone dissenter. Justices Kelly, Roggensack, and Rebecca Bradley were each lone dissenters once in 2020.

COURT JURISDICTION

The supreme court has *jurisdiction* over original actions, appeals from lower courts, and regulation or administration of the practice of law in Wisconsin. Most commonly, the supreme court reviews cases that were appealed from the court of appeals.

Case types decided by Wisconsin Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Wisconsin Supreme Court in 2020 were nonjudicial activity. Of the 89 cases it heard, 40 were nonjudicial activity cases, which was 44.9 percent of its caseload for the year. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court.

The second most common cases that reached the supreme court were criminal cases. A criminal case involves a final criminal appeal before the court of last resort. The Wisconsin Supreme Court heard 18 criminal cases in 2020, or 20.2 percent of its total caseload for the year.

The third most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Wisconsin Supreme Court heard 11 civil cases in 2020, or 12.4 percent of its total caseload for the year.

PROMINENT CASES

Wisconsin Legislature v. Palm

Justice	Brian Hagedorn	Patience Roggensack	Ann Walsh Bradley	Rebecca Bradley	Rebecca Dallet	Annette Ziegler	Daniel Kelly
Office of Lawyer Regulation v. Palm	Writing a dissenting opinion	Writing majority opinion	Writing a dissenting opinion	Writing a concurring opinion	Writing a dissenting opinion	Joining majority opinion	Writing a concurring opinion

- ◆ **Contention:** Justice Roggensack wrote the majority opinion and also filed a concurring opinion. Justice Rebecca Bradley filed a concurring opinion and was joined by Justice Kelly. Justice Kelly filed a concurring opinion and was joined by Justice Rebecca Bradley. Justice Ann Bradley wrote a dissenting opinion and was joined by Justice Dallet. Justice Dallet wrote a dissenting opinion and was joined by Justices Ann Bradley and Hagedorn. Justice Hagedorn wrote a dissenting opinion and was joined by Justices Ann Bradley and Dallet in part.
- ◆ **Summary:** On March 12, 2020, Gov. Tony Evers (D) issued Executive Order 72 proclaiming that a public health emergency existed in Wisconsin and directed DHS to take “all necessary and appropriate measures” to prevent incidents of COVID-19 in the State. On March 24, Palm, as secretary-designee of the Department of Health Services, issued Emergency Order 12 ordering Wisconsin citizens to stay at home. On April 16, Palm issued Emergency Order 28 ordering individuals to stay at home or risk punishment. The Wisconsin Legislature brought an emergency petition for original action asserting that Palm failed to follow emergency rulemaking procedures required under Wis. Stat. 227.24. The Supreme Court held (1) Emergency Order 28 is a “rule” under Wis. Stat. 227.01(13); (2) because Palm did not follow rulemaking procedures during Order 28’s promulgation, there could be no criminal penalties for violations of her order; and (3) Palm’s order further exceeded the statutory authority of Wis. Stat. 252.02.
- ◆ **Majority opinion:** Justice Roggensack wrote: “Emergency Order 28 is a general order of general application within the meaning of Wis. Stat. § 227.01(13) which defines “Rule.” Accordingly, the rulemaking procedures of Wis. Stat. § 227.24 were required to be followed during the promulgation of Order 28. Because they were not, Emergency Order 28 is unenforceable.” (*Wisconsin Legislature v. Palm*, No. 2020AP765-OA, 31 (Wis. 2020))
- ◆ **Justice Rebecca Bradley’s concurring argument:** Justice Rebecca Bradley wrote: “Under the Wisconsin Constitution, all governmental power derives ‘from the consent of the governed’ and government officials may act only within the confines of the authority the people give them. Wis. Const. art. I, § 1. The people of Wisconsin never consented to any elected official, much less an unelected cabinet secretary, having the power to create law, execute it, and enforce

it. '[E]ver vigilant in averting the accumulation of power by one body—a grave threat to liberty—the people devised a diffusion of governmental powers' among three branches of government. *Gabler v. Crime Victims Rights Bd.*, 2017 WI 67, ¶60, 376 Wis. 2d 147, 897 N.W.2d 384. Whenever any branch of government exceeds the boundaries of authority conferred by the people, it is the duty of the judicial branch to say so." (*Wisconsin Legislature v. Palm*, No. 2020AP765-OA, 1 (Wis. 2020))

- ◆ **Justice Kelly's concurring argument:** Justice Kelly wrote: "The Order may be a brilliantly conceived and executed response to COVID-19. Or maybe it's not. Either way, that is not the question before the court. Brilliance does not confer authority. Nor does necessity. Our only task in this case was to determine whether Secretary Palm has the authority to issue the Order. We had an unavoidable, non-discretionary, obligatory responsibility to decide that question. And so we have. Because I agree with that declaration, I join the court's opinion. I wrote separately because it is important to establish that, if we agreed with the Secretary's reading of Wis. Stat. § 252.02, we would have to conclude the statute violated the separation of powers by conferring on the Secretary the power to make laws without going through the rule-making process." (*Wisconsin Legislature v. Palm*, No. 2020AP765-OA, 23-24 (Wis. 2020))
- ◆ **Justice Hagedorn's dissenting argument:** Justice Hagedorn wrote: "The legislature asks in the alternative that we address whether Order 28 goes beyond the statutory powers DHS has been granted in Wis. Stat. § 252.02. But the legislature has not alleged, nor can I identify, any harm to the legislature as a constitutional body for which this court can grant relief. Executive branch overreach may be challenged by those who are harmed by the executive branch action. Except in unusual cases, the lawmaking body is not injured in its lawmaking functions by executive branch enforcement gone awry. Therefore, the legislature lacks standing to bring this claim, and it should be dismissed." (*Wisconsin Legislature v. Palm*, No. 2020AP765-OA, 51 (Wis. 2020))
- ◆ **Justice Ann Bradley's dissenting argument:** Justice Ann Bradley wrote: "Given the admonition of Dr. Fauci, I fail to see the wisdom or the equity in invalidating Emergency Order 28 and, at least for the time being, leaving nothing in its stead. Accordingly, I dissent." (*Wisconsin Legislature v. Palm*, No. 2020AP765-OA, 3 (Wis. 2020))
- ◆ **Justice Dallet's dissenting argument:** Justice Dallet wrote: "It is clear that a majority of this court has no appreciation of the consequences of doing the Legislature's bidding in the midst of a pandemic. The Legislature has always had the power to act, but would rather ask this court to do so to avoid political fallout. Unfortunately for Wisconsinites, this court took the bait." (*Wisconsin Legislature v. Palm*, No. 2020AP765-OA, 19 (Wis. 2020))

Hawkins v. Wisconsin Elections Commission

Justice	Brian Hagedorn	Patience Roggensack	Ann Walsh Bradley	Rebecca Bradley	Rebecca Dallet	Annette Ziegler	Jill Karofsky
Hawkins v. Wisconsin Elections Commission	Joining per curiam opinion	Writing a dissenting opinion	Joining per curiam opinion	Writing a dissenting opinion	Joining per curiam opinion	Writing a dissenting opinion	Joining per curiam opinion

- ◆ **Contention:** The opinion written by the court was a per curiam opinion. Justice Annette Ziegler wrote a dissenting opinion. Chief Justice Patience Roggensack wrote a dissenting opinion. Justice Rebecca Bradley wrote a dissenting opinion.
- ◆ **Summary:** Petitioners were the Green Party's candidates for President and Vice President of the United States. Because the Commission failed to certify at least 2,000 valid signatures, Petitioners filed a petition for leave to commence an original action and a motion for temporary injunctive relief asking that the Supreme Court order that their names be placed on Wisconsin's 2020 fall general election ballot. The Supreme Court denied relief, holding (1) Petitioners delayed seeking relief and hundreds of absentee ballots had already been mailed to electors; and (2) therefore, the Court declined to exercise its original jurisdiction due to the lack of sufficient time to complete its review and award any effective relief without completely upsetting the election.
- ◆ **Per curiam argument:** The per curiam opinion reads, "Even if we would ultimately determine that the petitioners' claims are meritorious, given their delay in asserting their rights, we would be unable to provide meaningful relief without completely upsetting the election. We agree with the Commission that requiring municipalities to print and send a second round of ballots to voters who already received, and potentially already returned, their first ballot would result in confusion and disarray and would undermine confidence in the general election results. Under the circumstances presented here, it would be unfair both to Wisconsin voters and to the other candidates on the general election ballot to interfere in an election that, for all intents and purposes, has already begun. For these reasons, we determine that the best exercise of our discretion is to deny the petitioners' petition for leave to commence an original action and motion for temporary injunctive relief." (*Hawkins v. Wisconsin Elections Commission*, No. 2020AP1488-OA, 8 (Wis. 2020))
- ◆ **Zeigler's dissenting argument:** Justice Zeigler wrote, "The majority failed this state's and this country's election process. The majority's decision does more than just misread the law and misapply the facts. It deprives the Wisconsin people of a voice and strips them of one of the most fundamental tenets of this republic: the right to express one's will at the ballot box. But come November, important swaths of this state's electorate will go unheard. And for what purpose? To reward the Commission for its missteps and to deny

the State of Wisconsin political choice? For the majority, apparently so. When Wisconsin electors signed the Green Party's nomination papers for President and Vice President of this country, what were they signing? Perhaps, as the majority seemingly endorses, they were signing their approval of Angela Walker's address in South Carolina. Or perhaps it was something more. Perhaps they were signing on behalf of their right to vote for a candidate of their choice, and to exercise one of their most important liberties that a democratic country can offer." (*Hawkins v. Wisconsin Elections Commission*, No. 2020AP1488-OA, 46 (Wis. 2020))

- ◆ **Roggensack's dissenting argument:** Justice Roggensack wrote, "It has been said that transparency is the best medicine for curbing governmental practices that abuse the rights of those who must interact with government. The Commission ignored its legal obligations under Wis. Admin. Code §§ EL 2.05(4) and EL 2.07(3)(a), and in so doing it suppressed the rights of voters to choose Green Party candidates for President and Vice President. The court's Order is silent on the Commission's unlawful conduct and imposes no consequences for what it has done. The court's silence not only affirms lawless conduct by the Commission, but also provides no directive for the required treatment of nomination papers in the future." (*Hawkins v. Wisconsin Elections Commission*, No. 2020AP1488-OA, 14 (Wis. 2020))
- ◆ **Rebecca Bradley's dissenting argument:** Justice Rebecca Bradley wrote, "The majority pretends the court lacks "sufficient time to complete our review and award any effective relief." What nonsense. Wisconsin law unquestionably requires that Mr. Hawkins and Ms. Walker appear on the ballot. The court could have ordered their certification as candidates before any ballots were mailed to voters. Instead, the court refuses to perform its duty to faithfully apply the law and allows the Wisconsin Elections Commission to flout it, thereby signaling to the WEC that it may disregard the law at whim, with no accountability to the people for its transgressions. In dodging its responsibility to uphold the rule of law, the majority ratifies a grave threat to our republic, suppresses the votes of Wisconsin citizens, irreparably impairs the integrity of Wisconsin's elections, and undermines the confidence of American citizens in the outcome of a presidential election. I dissent." (*Hawkins v. Wisconsin Elections Commission*, No. 2020AP1488-OA, 49 (Wis. 2020))

Trump v. Biden

Justice	Brian Hagedorn	Patience Roggensack	Ann Walsh Bradley	Rebecca Bradley	Rebecca Dallet	Annette Ziegler	Jill Karofsky
Trump v. Biden	Writing majority opinion	Writing a dissenting opinion	Joining majority opinion	Writing a dissenting opinion	Writing a concurring opinion	Writing a dissenting opinion	Writing a concurring opinion

- ◆ **Contention:** Justice Hagedorn wrote the majority opinion. Justice Ann Bradley joined the majority opinion. Justice Roggensack wrote a dissenting opinion. Justice Rebecca Bradley wrote a dissenting opinion. Justice Zeigler wrote a dissenting opinion. Justice Dallet wrote a concurring opinion. Justice Karofsky wrote a concurring opinion.
- ◆ **Summary:** The Supreme Court rejected Donald Trump's effort to invalidate 220,000 votes from Dane and Milwaukee Counties in the 2020 presidential election. The petitioner brought action seeking to invalidate the ballots due to four different objections, applying only to Dane and Milwaukee Counties. Among those challenged ballots were ballots cast by voters who claimed indefinitely confined status since March 25, 2020. The Supreme Court concluded that the Petitioners were not entitled to the requested relief, holding (1) the challenge to the indefinitely confined voter ballots was meritless on its face; and (2) the other three categories of challenged ballots failed under the doctrine of laches.
- ◆ **Majority argument:** Justice Hagedorn wrote, "The Campaign waited until after the election to raise selective challenges that could have been raised long before the election. We conclude the challenge to indefinitely confined voter ballots is without merit, and that laches bars relief on the remaining three categories of challenged ballots. The Campaign is not entitled to relief, and therefore does not succeed in its effort to strike votes and alter the certified winner of the 2020 presidential election." (*Trump v. Biden*, No. 2020AP2038, 17 (Wis. 2020))
- ◆ **Justices Dallet and Karofsky's concurring argument:** Justices Dallet and Karofsky wrote a concurring opinion together, and wrote, "As acknowledged by the President's counsel at oral argument, the President would have the people of this country believe that fraud took place in Wisconsin during the November 3, 2020 election. Nothing could be further from the truth. The President failed to point to even one vote cast in this election by an ineligible voter; yet he asks this court to disenfranchise over 220,000 voters. The circuit court, whose decision we affirm, found no evidence of any fraud." (*Trump v. Biden*, No. 2020AP2038, 1 (Wis. 2020))
- ◆ **Justice Roggensack's dissenting argument:** Justice Roggensack wrote, "The Milwaukee County Board of Canvassers and the Dane County Board of Canvassers based their decisions on erroneous advice when they concluded that changes clerks made to defective

witness addresses were permissible. And, the Dane County Board of Canvassers erred again when it approved the 200 locations for ballot collection that comprised Democracy in the Park. The majority does not bother addressing what the boards of canvassers did or should have done, and instead, four members of this court throw the cloak of laches over numerous problems that will be repeated again and again, until this court has the courage to correct them. The electorate expects more of us, and we are capable of providing it. Because we do not, I respectfully dissent.” (*Trump v. Biden*, No. 2020AP2038, 18 (Wis. 2020))

- ◆ **Justice Rebecca Bradley’s dissenting argument:** Justice Rebecca Bradley wrote, “Once again, the majority of the Wisconsin Supreme Court wields the discretionary doctrine of laches as a mechanism to avoid answering questions of law the people of Wisconsin elected us to decide. Although nothing in the law compels its application, this majority routinely hides behind laches in election law cases no matter when a party asserts its claims. Whether election officials complied with Wisconsin law in administering the November 3, 2020 election is of fundamental importance to the voters, who should be able to rely on the advice they are given when casting their ballots. Rather than fulfilling its duty to say what the law is, a majority of this court unconstitutionally converts the Wisconsin Elections Commission’s mere advice into governing “law,” thereby supplanting the actual election laws enacted by the people’s elected representatives in the legislature and defying the will of Wisconsin’s citizens. When the state’s highest court refuses to uphold the law, and stands by while an unelected body of six commissioners rewrites it, our system of representative government is subverted.” (*Trump v. Biden*, No. 2020AP2038, 1 (Wis. 2020))
- ◆ **Justice Ziegler’s dissenting argument:** Justice Zeigler wrote, “The majority’s decision not to address the merits suffers from an even more insidious flaw—it places the will of this court and the will of the Wisconsin Elections Commission above the express intent of the legislature. The majority uses the potential remedy, striking votes, as an equitable reason to deny this case. Majority op., ¶31. But the majority ignores that the legislature specifically set forth a remedy that absentee ballots cast in contravention of the statute not be counted. See Wis. Stat. § 6.84(2). When the law is not followed, the counting of illegal ballots effectively disenfranchises voters. This past election, absentee voting was at an extraordinarily high level. Perhaps this is why it mattered more now than ever that the law be followed. Also this might explain why the process has not been objected to before in the form of a lawsuit like this one. The majority gives virtually no consideration to this fact.” (*Trump v. Biden*, No. 2020AP2038, 14 (Wis. 2020))

NONCONTENTIOUS COURTS

ALABAMA SUPREME COURT

									
	Tommy Bryan	William Sellers	Jay Mitchell	Tom Parker	Greg Shaw	Brad Menheim	Kelli Wise	Michael Bolin	Sarah Stewart
Confidence Score	Strong Republican	Strong Republican	Strong Republican	Strong Republican	Strong Republican	Strong Republican	Strong Republican	Strong Republican	Strong Republican
Opinion Partners				✓	✓				
Dissenting Minority									
Determining Majority									
Lone Dissenter		✓	✓						

SUMMARY

- ▶ Number of justices: **9**
- ▶ Number of cases: **692**
- ▶ Percentage of cases with a unanimous ruling: **83.4% (577)**
- ▶ Justice most often writing the majority opinion: **Justice Mitchell (90)**
- ▶ Per curiam decisions: **21**
- ▶ Concurring opinions: **44**
- ▶ Justice with most concurring opinions: **Justice Mendheim (9)**
- ▶ Dissenting opinions: **33**
- ▶ Justice with most dissenting opinions: **Justice Shaw (10)⁸**

COURT CONTENTION

In 2020, at least one justice of the Alabama Supreme Court disagreed with the majority's ruling in 115 cases which was 16.6 percent of the time the court issued a ruling.

Opinion partners

In 2020, the Alabama Supreme Court decided 25 cases 7-2. Justices Parker and

⁸ Although Sellers and Mitchell dissented in more cases, many of those dissents were not accompanied by written opinions. Shaw wrote the greatest number of dissenting opinions of any justice on the court.

Shaw allied in dissent 13 times, which was more frequently than any other two justices on the court. In our *Ballotpedia Courts: State Partisanship* study, Justices Parker and Shaw both recorded a Strong Republican Confidence Score.

Dissenting minority

In 2020, the Alabama Supreme Court decided 12 cases by split decision. Justice Sellers was in the minority seven times, which was more than any other justice on the court. Across all split decisions, no group of four justices allied frequently in the dissent.

Determining majority

In the cases decided by split decision, no justices frequently allied in the majority. Justice Stewart was the only justice who did not dissent in a split decision, but she did not participate in four cases decided by split decision. Every justice dissented in at least three cases decided by split decision.

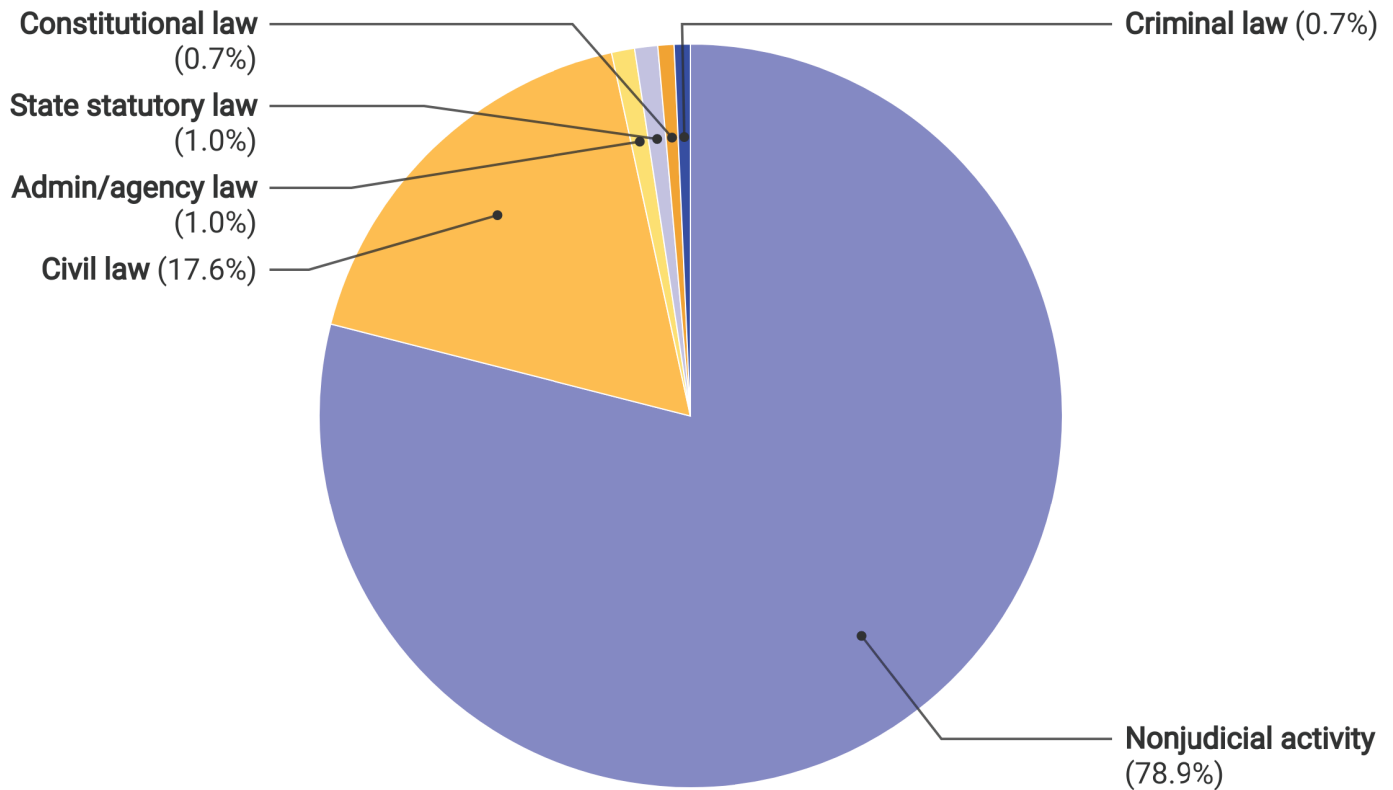
Lone dissenter

In 2020, there was a lone dissenter in 37 cases before the Alabama Supreme Court. Justice Sellers dissented alone 18 times, which was more than any other justice. In our *Ballotpedia Courts: State Partisanship* study, Justice Sellers recorded a Strong Republican Confidence Score. Justice Mitchell was a lone dissenter 13 times. In our *Ballotpedia Courts: State Partisanship* study, Justice Mitchell recorded a Strong Republican Confidence Score.

COURT JURISDICTION

The supreme court has jurisdiction to review the decisions reached by lower courts within the state. It is also authorized to review matters of contention where the dollar amount in question exceeds \$50,000 (if no other Alabama court has jurisdiction) and to review cases over which no other state court has jurisdiction. The court also hears appeals from the Alabama Public Service Commission. The supreme court has a supervisory role over the other courts in the state and is charged with making rules governing administration, practice, and procedure in all courts.

Case types decided by Alabama Supreme Court, 2020








BALLOTPEDIA

The most common case category heard by the Alabama Supreme Court in 2020 was nonjudicial activity. Of the 692 cases it heard, 546 were nonjudicial activity cases, or 78.9 percent of its caseload for the year. nonjudicial activity involves a formal hearing and discussion before the court. In Alabama, all 546 of these cases resulted in court orders rather than opinions.

The second most common cases that reached the supreme court were civil law cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Alabama Supreme Court heard 122 civil law cases in 2020, or 17.6 percent of its total caseload for the year.

ALASKA SUPREME COURT

Justices					
Confidence Score	Mild Republican	Mild Republican	Mild Republican	Indeterminate	Indeterminate
Opinion Partners	✓			✓	
Dissenting Minority	✓			✓	
Determining Majority		✓	✓		✓
Lone Dissenter			✓		

SUMMARY

- ▶ Number of cases: **138**
- ▶ Percentage of cases with a unanimous ruling: **92.0% (127)**
- ▶ Justice most often writing the majority opinion: **Justice Daniel Winfree (20)**
- ▶ Per curiam decisions: **61**
- ▶ Concurring opinions: **2**
- ▶ Justice with most concurring opinions: **Justice Craig Stowers (1) and Justice Daniel Winfree (1)**
- ▶ Dissenting opinions: **11**
- ▶ Justice with most dissenting opinions: **Justice Craig Stowers (4)**

COURT CONTENTION

Opinion partners/dissenting minority

The Alaska Supreme Court decided one case by split decision in 2020. In that case, Justices Winfree and Carney were in the dissent. In our *Ballotpedia Courts: State Partisanship* study, Justice Carney recorded an Indeterminate Confidence Score and Justice Winfree recorded a Mild Republican Confidence Score.

Determining majority

In the one case decided by split decision, Justices Bolger, Maassen, and Stowers were in the majority. In our *Ballotpedia Courts: State Partisanship* study,

Justice Bolger recorded a Mild Republican Confidence Score, Justice Stowers recorded a Mild Republican Confidence Score, and Justice Maassen recorded an Indeterminate Confidence Score.

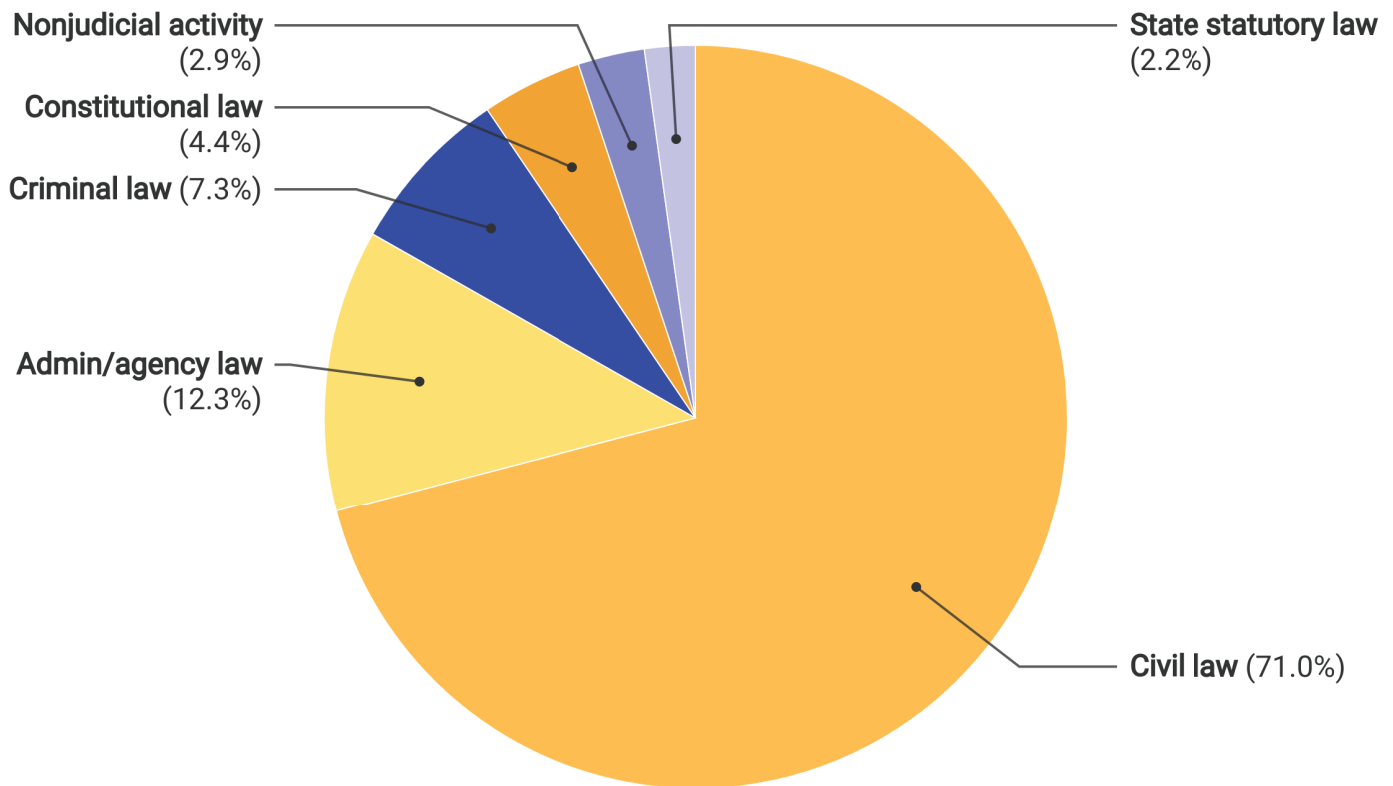
Lone dissenter

In 2020, there was a lone dissenter in eight cases before the Alaska Supreme Court. Justice Stowers was a lone dissenter in four of those cases.

COURT JURISDICTION

The Supreme Court has jurisdiction to review the decisions reached by lower courts within the state. The Court is required to accept appeals from previous decisions made by any Alaska Superior Court judge regarding civil issues, and including cases that originated in administrative agencies. The court has the option to hear appeals for criminal cases or petitions. In order for a criminal appeal to be heard, the appropriate appeals court must certify that the case involves a significant question of constitutional law, or it must be an issue of substantial public interest. The Supreme Court can choose whether or not to accept petitions of hearing from the lower courts on civil or criminal matters. The court may also review non-final decisions by the superior court in both civil and criminal cases. The court also hears other matters including bar admission, attorney discipline, and state law questions raised in United States federal courts. The Court also has a supervisory role over the other courts in the state and is charged with making rules governing administration, practice, and procedure in all courts. The court hears cases on a monthly basis in Anchorage, approximately quarterly in Fairbanks and Juneau, and as needed in other Alaska communities. The court prefers to hear arguments in the city where the case was heard in the trial court.

Case types decided by Alaska Supreme Court, 2020




BALLOTPEDIA

The most common case category heard by the Alaska Supreme Court in 2020 was civil law. Of the 138 cases it heard, 98 were civil cases, or 71.0 percent of its caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were administrative law cases. An admin/agency law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. The Alaska Supreme Court heard 17 admin/agency cases in 2020, or 12.3 percent of its total caseload for the year.

The third most common case that reached the court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The Alaska Supreme Court heard 10 criminal cases in 2020, or 7.2 percent of its total caseload for the year.

ARIZONA SUPREME COURT

Justices	 Robert Brutinel	 Andrew W. Gould	 Ann Timmer	 Clint Bolick	 John Lopez IV	 James P. Beene	 Bill Montgomery
Confidence Score	Mild Republican	Mild Republican	Indeterminate	Mild Republican	Strong Republican	Mild Republican	Strong Republican
Opinion Partners							
Dissenting Minority							
Determining Majority	✓	✓	✓		✓	✓	✓
Lone Dissenter				✓			

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **52**
- ▶ Percentage of cases with a unanimous ruling: **92.3% (48)**
- ▶ Justice most often writing the majority opinion: **Justice Brutinel (13)**
- ▶ Per curiam decisions: **0**
- ▶ Concurring opinions: **4**
- ▶ Justice with most concurring opinions: **Justice Bolick (3)**
- ▶ Dissenting opinions: **5**
- ▶ Justice with most dissenting opinions: **Justice Bolick (2)**

COURT CONTENTION

Opinion partners

In 2020, no justices on the Arizona Supreme Court allied in dissent.

Dissenting minority/determining majority

In 2020, the Arizona Supreme Court did not decide any case by split decision.

Lone dissenter

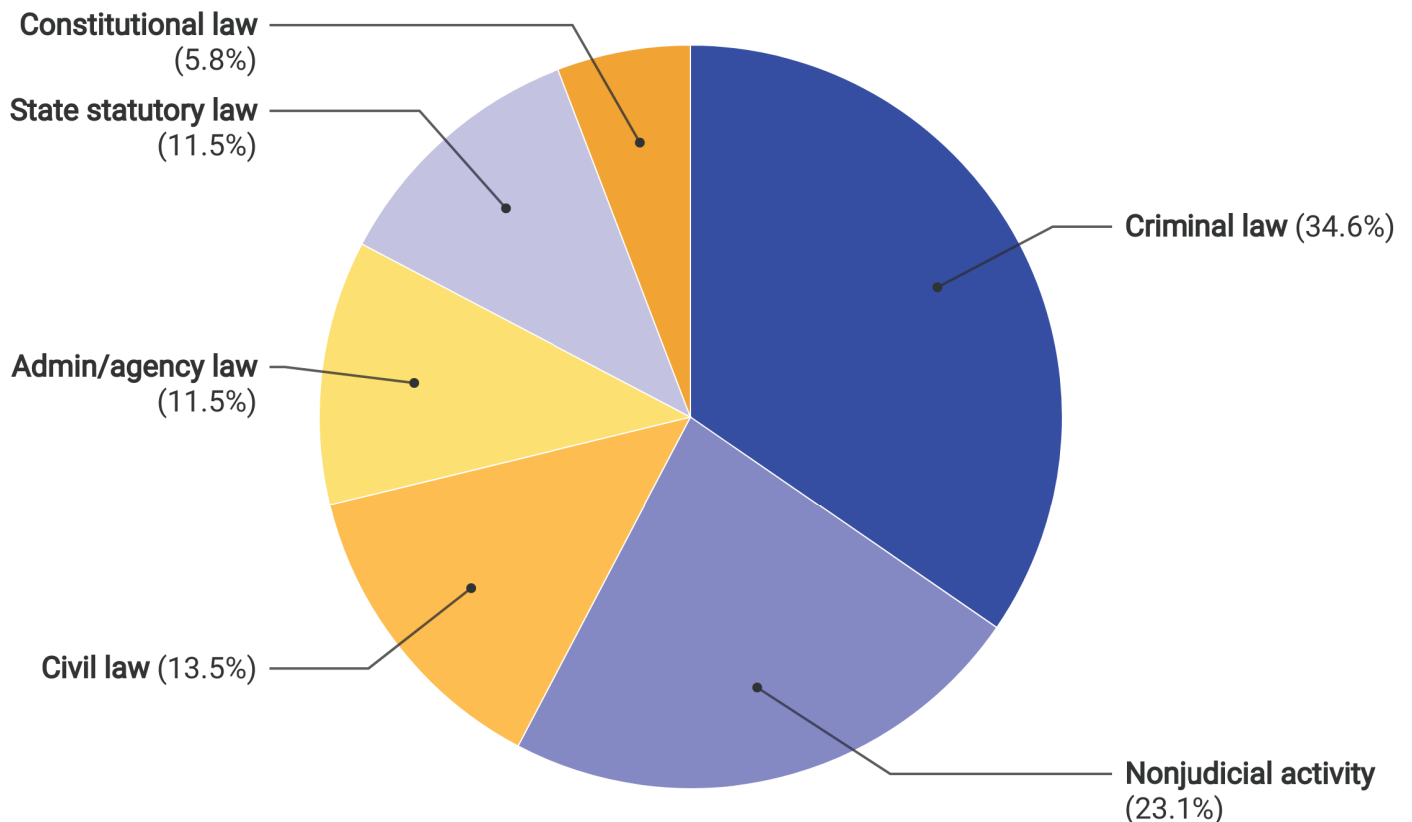
Justice Bolick departed from the majority more frequently than any justice on

the Arizona Supreme Court in 2020. He wrote a dissenting opinion in two cases, wrote a concurring opinion in three cases, and concurred in part and dissented in part in one case. In our Ballotpedia Court: State Partisanship study, Justice Bolick recorded a Mild Republican Confidence Score.

COURT JURISDICTION

Under Article 6, Section 5 of the Arizona Constitution, the supreme court has discretionary jurisdiction to review the decisions reached by lower courts within the state. Discretionary jurisdiction allows the court to refuse to review a lower court case unless the defendant in the case is sentenced to death, in which case the supreme court must hear the case. The court has a supervisory role over the Arizona Bar Association, other courts in the state, and the Commission on Judicial Conduct and is responsible for making rules governing administration, practice, and procedure in all courts. Under Article 8, Part 2, Section 1 of the constitution, the chief justice of the court also has a role in the impeachment process of public officials who are accused of crimes. The chief presides over senate impeachment trials but does not offer a decision on guilt or innocence of the official.

Case types decided by Arizona Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Arizona Supreme Court in 2020 were criminal cases. Of the 52 cases it heard, 18 were criminal cases, or 34.6 percent of its caseload for the year. A criminal case involves a final criminal appeal before the

court of last resort.

The second most common cases that reached the supreme court were nonjudicial activity. Nonjudicial activity involves a formal hearing and discussion before the court. The Arizona Supreme Court issued 10 such opinions in 2020, or 19.2 percent of its total caseload for the year.

The third most common cases that reached the court were civil law cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Arizona Supreme Court heard seven civil law cases in 2020, or 13.5 percent of its total caseload for the year.

ARAKANSA SUPREME COURT

Justices	 Courtney Rae Hudson	 Josephine Hart	 Dan Kemp	 Shawn Womack	 Robin Wynne	 Rhonda Wood	 Karen R. Baker
Confidence Score	Mild Republican	Indeterminate	Mild Republican	Strong Republican	Indeterminate	Mild Republican	Indeterminate
Opinion Partners		✓			✓		
Dissenting Minority							
Determining Majority	✓		✓	✓	✓	✓	✓
Lone Dissenter		✓					

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **257**
- ▶ Percentage of cases with a unanimous ruling: **55.6% (143)**
- ▶ Justice most often writing the majority opinion: **Justice Kemp (35)**
- ▶ Per curiam decisions: **54**
- ▶ Concurring opinions: **30**
- ▶ Justice with most concurring opinions: **Justice Hart (18)**
- ▶ Dissenting opinions: **97**
- ▶ Justice with most dissenting opinions: **Justice Hart (76)**

COURT CONTENTION

Opinion partners

In 2020, 22 cases before the Arkansas Supreme Court had at least two dissents. Justices Hart and Wynne allied in dissent five times, and Justices Hart and Woods allied in dissent five times, which was more frequently than any other justices on the court. In our *Ballotpedia Courts: State Partisanship* study, Hart and Wynne both recorded Indeterminate Confidence Scores, which means that there was not enough data on their partisan affiliation to determine confidently whether they were affiliated with the Republican or Democratic party when they were elected to the court. Justice Wood recorded a Mild Republican Confidence Score.

Dissenting minority

In 2020, the Arkansas Supreme Court decided seven cases by split decision. No justice dissented in all seven of those decisions. Justice Hart dissented five times, which was more than any other justice on the court. No group of four justices dissented together more than once in 2020.

Determining majority

No justice was in the majority for all seven cases decided by split decision. Justices Hudson, Kemp, Womack, and Wynne each ruled in the majority in five of those seven cases. Because different justices joined the majority in each case, there was no identifiable pattern to discern a determining majority.

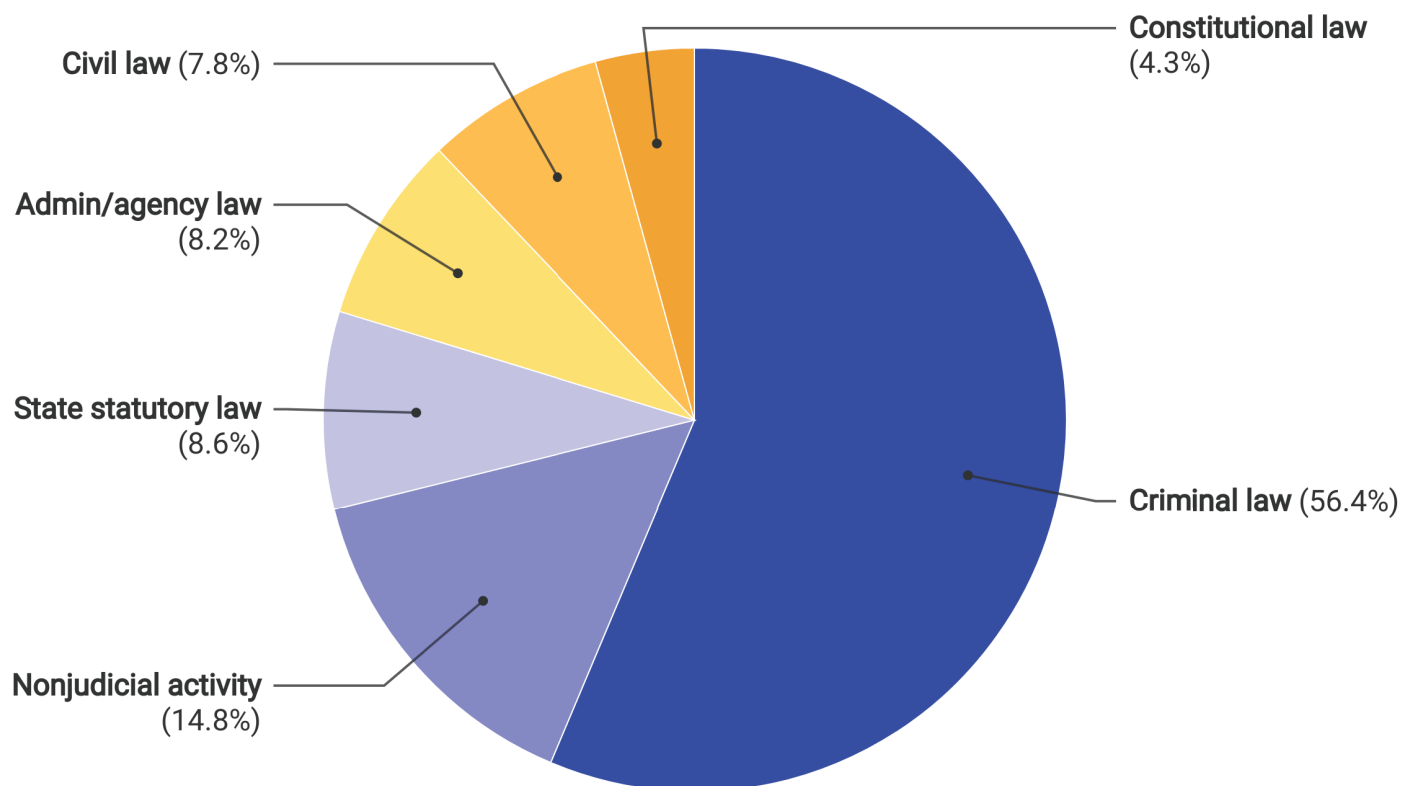
Lone dissenter

In 2020, Justice Hart dissented alone 68 times, which was more than any other justice. Justice Hart also had the most concurring opinions with 18. There was a lone dissenter in 85 cases in 2020.

COURT JURISDICTION

Article 7, Section 4 of the Arkansas Constitution describes the jurisdiction of the Supreme Court. (This was later amended by Amendment 80, Section 2.) The court has appellate jurisdiction. It may transfer a case from lower courts in certain circumstances or bring special proceedings to the higher court as outlined in Article VI. The court also has a supervisory role over all other courts in the state, over the conduct of attorneys and over the practice of law within the state.

Case types decided by the Arkansas State Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the Arkansas Supreme Court in 2020 was criminal law. Of the 257 cases it heard, 145 were Criminal cases, or 56.4 percent of its caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Arkansas Supreme Court decided 38 nonjudicial activity cases in 2020, or 14.8 percent of its total caseload for the year.

The third most common cases that reached the court were state statutory law. A state statutory case involves the violation or enforcement of a state statute. The Arkansas Supreme Court heard 22 state statutory law cases in 2020, or 8.6 percent of its total caseload for the year.

CALIFORNIA SUPREME COURT

Justices							
Confidence Score	Strong Democrat	Strong Democrat	Indeterminate	Mild Democrat	Strong Democrat	Indeterminate	Indeterminate
Opinion Partners	✓	✓					
Dissenting Minority			✓	✓		✓	
Determining Majority	✓	✓			✓		✓
Lone Dissenter	✓						

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **76**
- ▶ Percentage of cases with a unanimous ruling: **89.5% (68)**
- ▶ Justice most often writing the majority opinion: **Justice Kruger (13)**
- ▶ Per curiam decisions: **5**
- ▶ Concurring opinions: **13**
- ▶ Justice with most concurring opinions: **Justice Cuellar (7)**
- ▶ Dissenting opinions: **5**
- ▶ Justice with most dissenting opinions: **Justice Cantil-Sakauye (2)**

COURT CONTENTION

Opinion partners

Justices Liu and Cuellar dissented together twice, concurred together three times, and concurred in part and dissented in part together in one case. In our *Ballotpedia Courts: State Partisanship* study Liu and Cuéllar recorded Strong Democratic Confidence Scores.

Dissenting minority

In 2020, the California Supreme Court decided one case by split decision. In that case, Justices Cantil-Sakauye, Corrigan, and Kruger were in the minority. In our *Ballotpedia Courts: State Partisanship* study, Cantil-Sakauye recorded an

Indeterminate Confidence Score, Corrigan recorded an Indeterminate Confidence Score, and Kruger recorded a Mild Democratic Confidence Score.

Determining majority

In the one case decided by split decision, Justices Chin, Cuéllar, Groban, and Liu ruled in the majority. In our *Ballotpedia Courts: State Partisanship* study, Justice Chin recorded an Indeterminate Confidence Score. Justices Cuéllar, Groban, and Liu recorded Strong Democratic Confidence Scores.

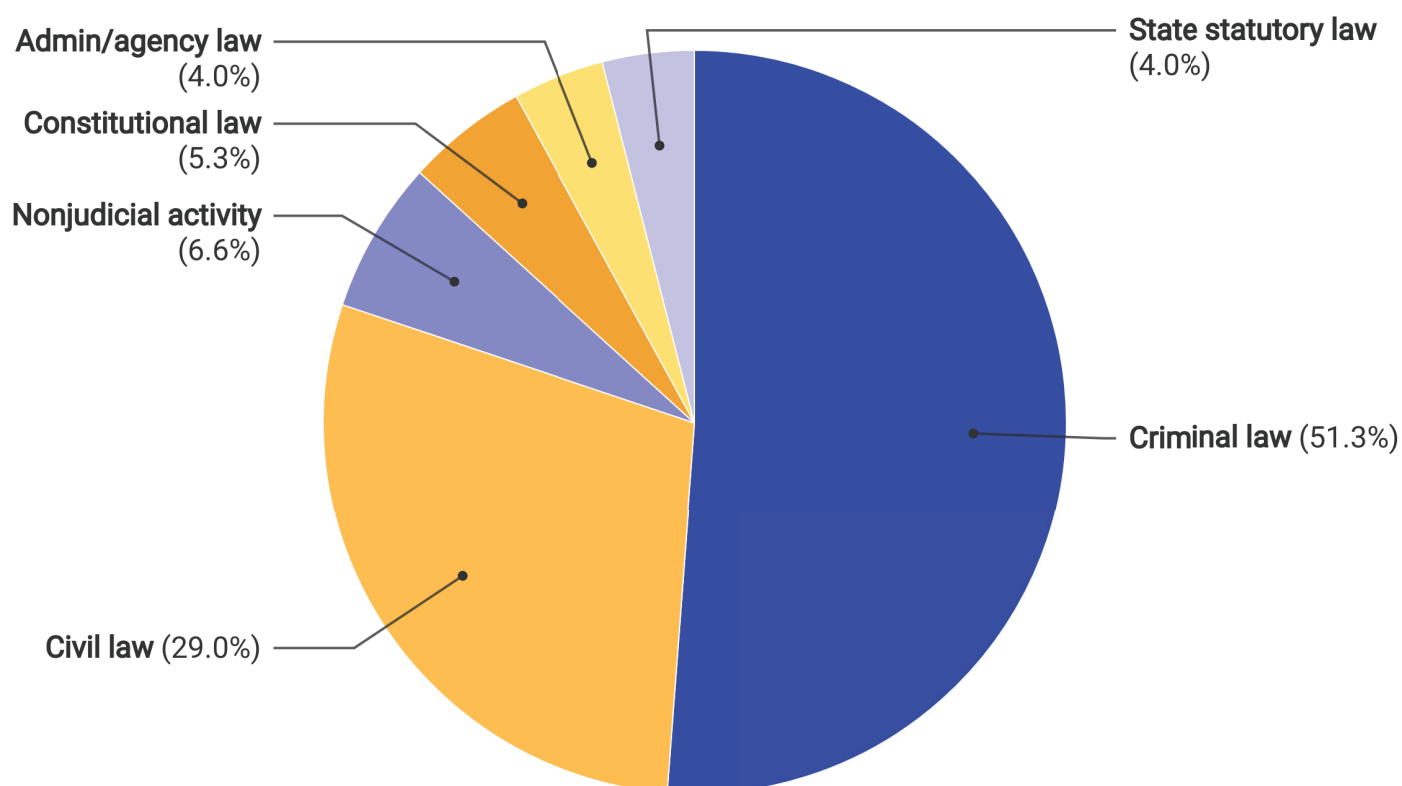
Lone dissenter

There was a lone dissenter in only one case before the California Supreme Court in 2020. Justice Liu wrote the only lone dissent.

COURT JURISDICTION

The California Constitution gives the supreme court jurisdiction in mandamus, certiorari, habeas corpus, and prohibition cases. The California Supreme Court chooses cases that address legal issues that are relevant and significant across the state. The court has appellate jurisdiction to review parts of or entire cases brought before the California Courts of Appeal or any ruling that results in a judgment of death. The court also reviews the recommendations from the Commission on Judicial Performance and from the California State Bar for misconduct and disciplinary hearings. The Public Utilities Commission is the only entity that appeals directly to the supreme court.

Case types decided by California Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the California Supreme Court in 2020 was criminal law. Of the 76 cases it heard, 39 were criminal cases, or 51.3 percent of its total caseload for the year.

A criminal case involves a final criminal appeal before the court of last resort. The second most common cases that reached the supreme court were civil law. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The California Supreme Court heard 22 civil law cases in 2020, or 28.9 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The California Supreme Court heard five nonjudicial activity cases in 2020, or 6.6 percent of its total caseload for the year.

COLORADO SUPREME COURT

Justices							
	Nathan Coats	William Hood	Brian Boatright	Monica Márquez	C. Armando Samour	Richard Gabriel	Melissa Hart
Confidence Score	Mild Republican	Strong Democrat	Indeterminate	Strong Democrat	Indeterminate	Mild Democrat	Mild Democrat
Opinion Partners	✓		✓				
Dissenting Minority	✓		✓		✓		
Determining Majority		✓		✓		✓	✓
Lone Dissenter						✓	

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **91**
- ▶ Percentage of cases with a unanimous ruling: **68.1% (62)**
- ▶ Justice most often writing the majority opinion: **Justice Samour and Gabriel (19)**
- ▶ Per curiam decisions: **6**
- ▶ Concurring opinions: **3**
- ▶ Dissenting opinions: **24**
- ▶ Justice with most dissenting opinions: **Justice Gabriel (6)**

COURT CONTENTION

The Colorado Supreme Court experienced some contention in 2020. At least one justice disagreed with the majority's ruling in 31 cases, which was 32 percent of the time the court issued a ruling. At least one justice dissented 24 percent of the time.

Opinion partners

The two justices who allied most often were Justices Coats and Boatright, who agreed 91 times in 2020, which was 94 percent of the time. Justices Coats and Boatright also dissented together more than any other pair of justices on the court. They dissented together seven times, which was 23 percent of all cases with dissents. In our *Ballotpedia Courts: State Partisanship* study we tracked the partisanship data on every state supreme court justice in the United States and

used that data to assign a partisan Confidence Score. Justice Coats recorded a Mild Republican Confidence Score, and Justice Boatright recorded an indeterminate partisan Confidence Score.

Dissenting minority

In 2020, the Colorado Supreme Court decided 12 cases 4-3. Justices Boatright, Coats, and Samour were in the minority in four of those cases, which was more frequently than any other group of three justices. In our *Ballotpedia Courts: State Partisanship* study, Boatright and Samour recorded Indeterminate Confidence Scores and Coats recorded a Mild Republican Confidence Score.

Determining majority

In the cases decided by split decision Justice Hood was in the majority ten times, which was more frequently than any of his colleagues. Justice Márquez was in the majority nine times. The group of four justices most frequently allying together in the majority were Justices Gabriel, Hart, Hood, and Márquez. In our *Ballotpedia Courts: State Partisanship* study Justices Gabriel and Hart recorded Mild Democratic Confidence Scores, and Justices Hood and Márquez recorded Strong Democratic Confidence Scores.

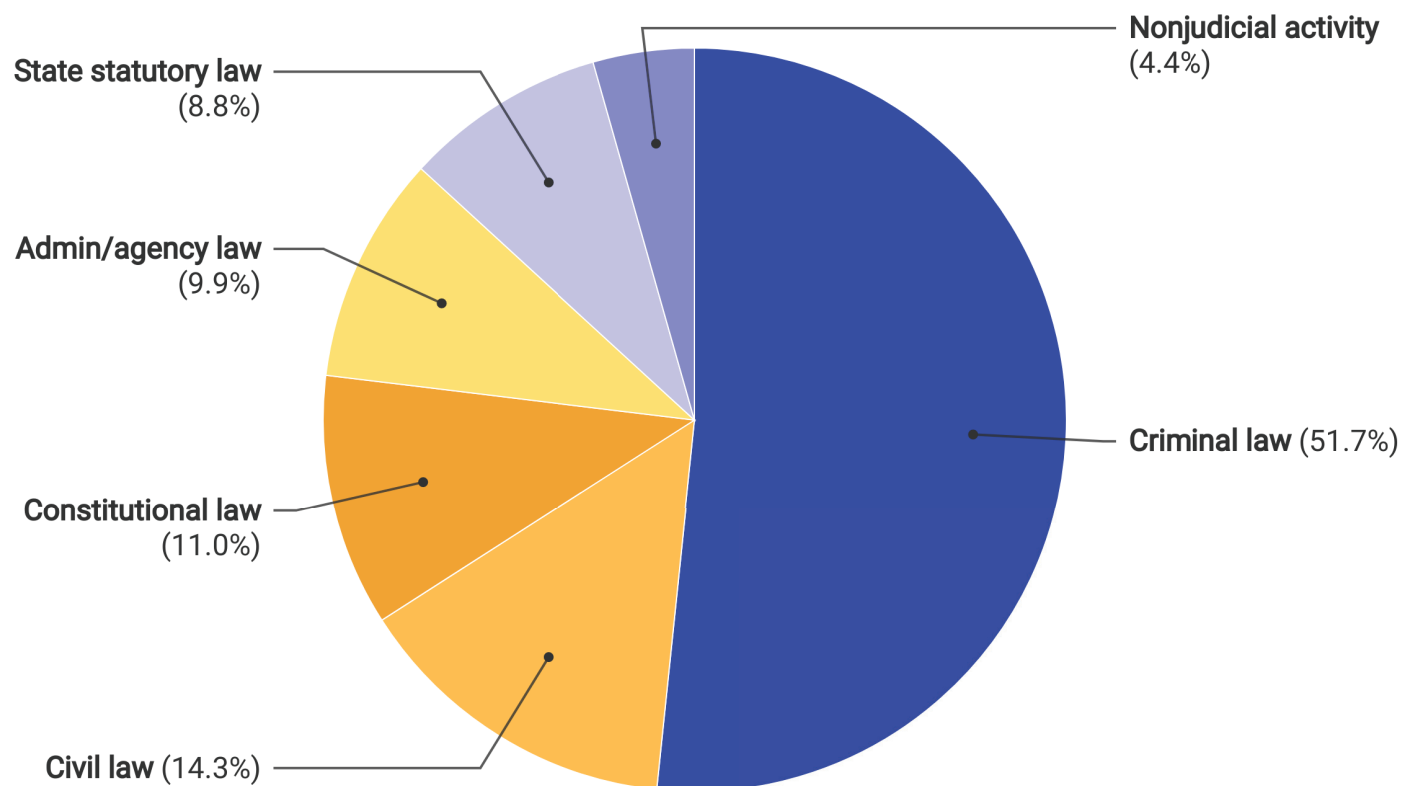
Lone dissenter

In 2020, the Colorado Supreme Court decided five cases 6-1. Justice Gabriel was the lone dissenter in four of those cases.

COURT JURISDICTION

Most of the cases that come before the court are appeals of decisions issued by the Colorado Court of Appeals. However, Article VI of the Colorado Constitution also gives the court jurisdiction over certain matters.

Case types decided by Colorado Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the Colorado Supreme Court in 2020 were criminal law cases. Of the 91 cases it heard, 47 were criminal cases, or 51.6 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil law cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Colorado Supreme Court heard 13 civil law cases in 2020, or 14.3 percent of its total caseload for the year.

The third most common cases that reached the court were constitutional law cases. A constitutional case is one that involves the violation of a right expressly protected by the Constitution of the United States. The Colorado Supreme Court heard 10 constitutional law cases in 2020, or 11.0 percent of its total caseload for the year.

CONNECTICUT SUPREME COURT

Justice								
Confidence Score	Indeterminate, Senior Status	Indeterminate	Mild Democrat	Mild Democrat	Mild Democrat	Strong Democrat	Mild Democrat	N/A
Opinion Partners								
Dissenting Minority								
Determining Majority								
Lone Dissenter								

SUMMARY

- ▶ Number of justices: **8**
- ▶ Number of cases: **43**
- ▶ Percentage of cases with a unanimous ruling: **90.7% (39)**
- ▶ Justice most often writing the majority opinion: **Justice D'Auria (10)**
- ▶ Per curiam decisions: **3**
- ▶ Concurring opinions: **4**
- ▶ Dissenting opinions: **4**

COURT CONTENTION

Opinion partners

In 2020, there were no opinion partners in cases decided by the Connecticut Supreme Court.

Dissenting minority

In 2020, the Connecticut Supreme Court decided one case by split decision. In that case, Justices Kahn, McDonald, and Mullins were in the minority. In our Ballotpedia Courts: State Partisanship study, Justices Kahn and Mullins recorded

⁹ Christine S. Vertefeuille was a justice on the seven-member Connecticut Supreme Court. She was appointed to the court by Governor John G. Rowland on January 3, 2000. Her term was renewed in November of 2008, but she retired and assumed senior status on June 1, 2010. Senior judges are Article III judges who, having met eligibility through age and service requirements, continue to serve on federal courts while hearing a reduced number of cases.

Mild Democratic Confidence Scores, and Justice McDonald recorded a Strong Democratic Confidence Score.

Determining majority

In the case decided by split decision, Justices D'Auria, Ecker, Palmer, and Robinson were in the majority. In our *Ballotpedia Courts: State Partisanship* study, Justices D'Auria and Ecker recorded Mild Democratic Confidence Scores, Justice Robinson recorded an Indeterminate Confidence Score, and Justice Palmer was not on the court when we conducted our study, so he did not receive a score.

Lone dissenter

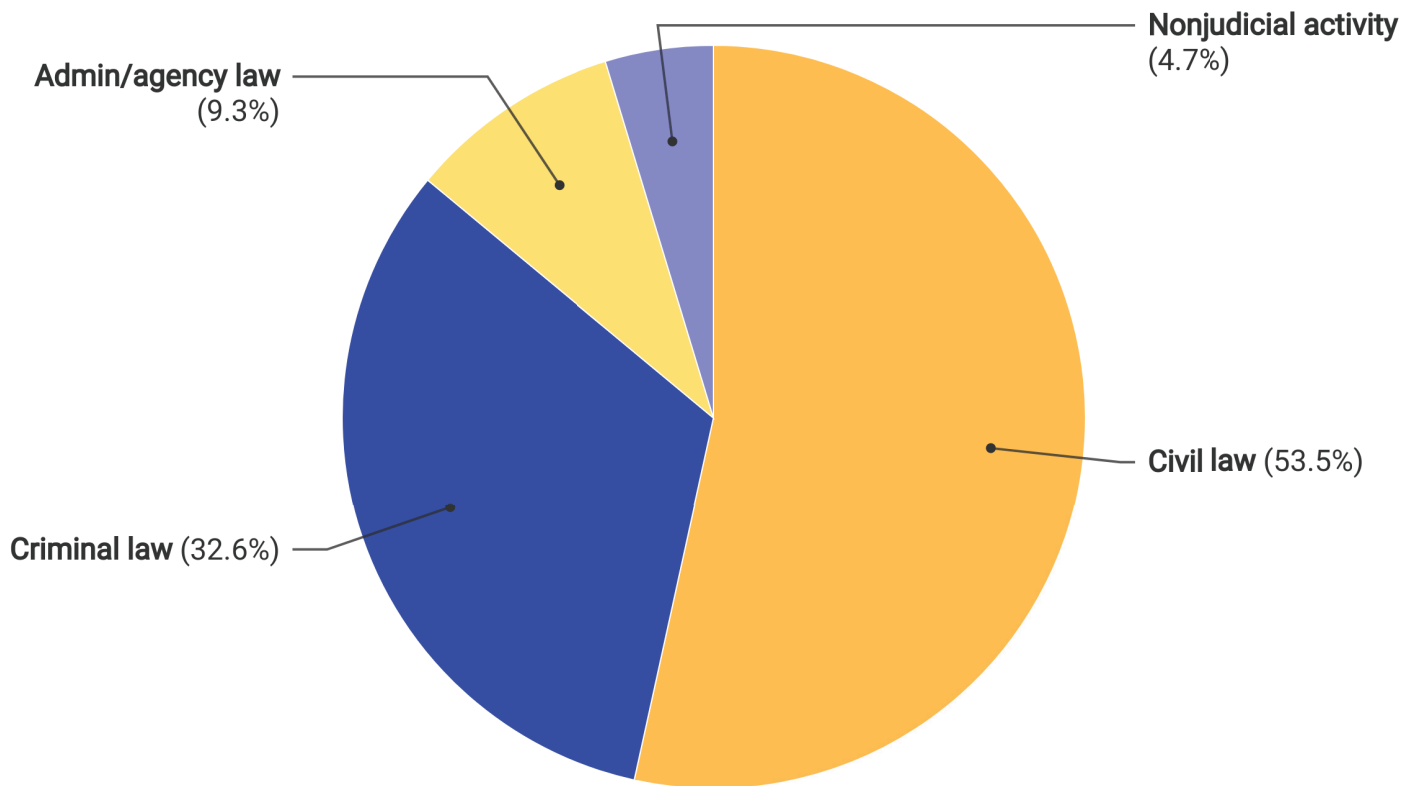
In 2020 there were no cases containing a lone dissent.

COURT JURISDICTION

The supreme court generally has appellate jurisdiction over cases decided in lower courts within Connecticut, including cases decided by the appellate court.

The court has mandatory jurisdiction over the following types of cases: civil appeals, capital criminal appeals, criminal appeals, and judicial discipline matters. The court has discretionary jurisdiction over civil appeals, non-capital criminal appeals, and administrative agency cases.

Case types decided by Connecticut Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Connecticut Supreme Court in 2020 were civil cases. Of the 43 cases it heard, 23 were civil cases, or 53.5 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The Connecticut Supreme Court heard 14 criminal law cases in 2020, or 32.6 percent of its total caseload for the year.

The third most common cases that reached the court were administrative law cases. An administrative law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. The Connecticut Supreme Court heard four administrative law cases in 2020, or 9.3 percent of its total caseload for the year.

DELAWARE SUPREME COURT



Justices	Tamika Montgomery-Reeves	Karen Valihura	Gary Traynor	James T. Vaughn	Collins Seitz
Confidence Score	Indeterminate	Indeterminate	Mild Democrat	Strong Democrat	Strong Democrat
Opinion Partners					
Dissenting Minority					
Determining Majority					
Lone Dissenter				✓	

SUMMARY

- ▶ Number of justices: **5**
- ▶ Number of cases: **435**
- ▶ Percentage of cases with a unanimous ruling: **97.9% (426)**
- ▶ Justice most often writing the majority opinion: **Justice Collins Seitz (105)**
- ▶ Per curiam decisions: **1**
- ▶ Concurring opinions: **3**
- ▶ Justice with most concurring opinions: **Justice James T. Vaughn (3)**
- ▶ Dissenting opinions: **9**
- ▶ Justice with most dissenting opinions: **Justice James T. Vaughn (6)**

COURT CONTENTION

Opinion partners/dissenting minority

In 2020, four cases before the Delaware Supreme Court were decided 3-2. Justices Valihura and Vaughn allied in dissent in two of those cases. In our *Ballotpedia Courts: State Partisanship* study, Justice Valihura recorded an Indeterminate Confidence Score and Justice Vaughn recorded a Strong Democratic Confidence Score.

Determining majority

There were no three justices who were in the majority more than once in the split

cases decided by the Delaware Supreme Court in 2020.

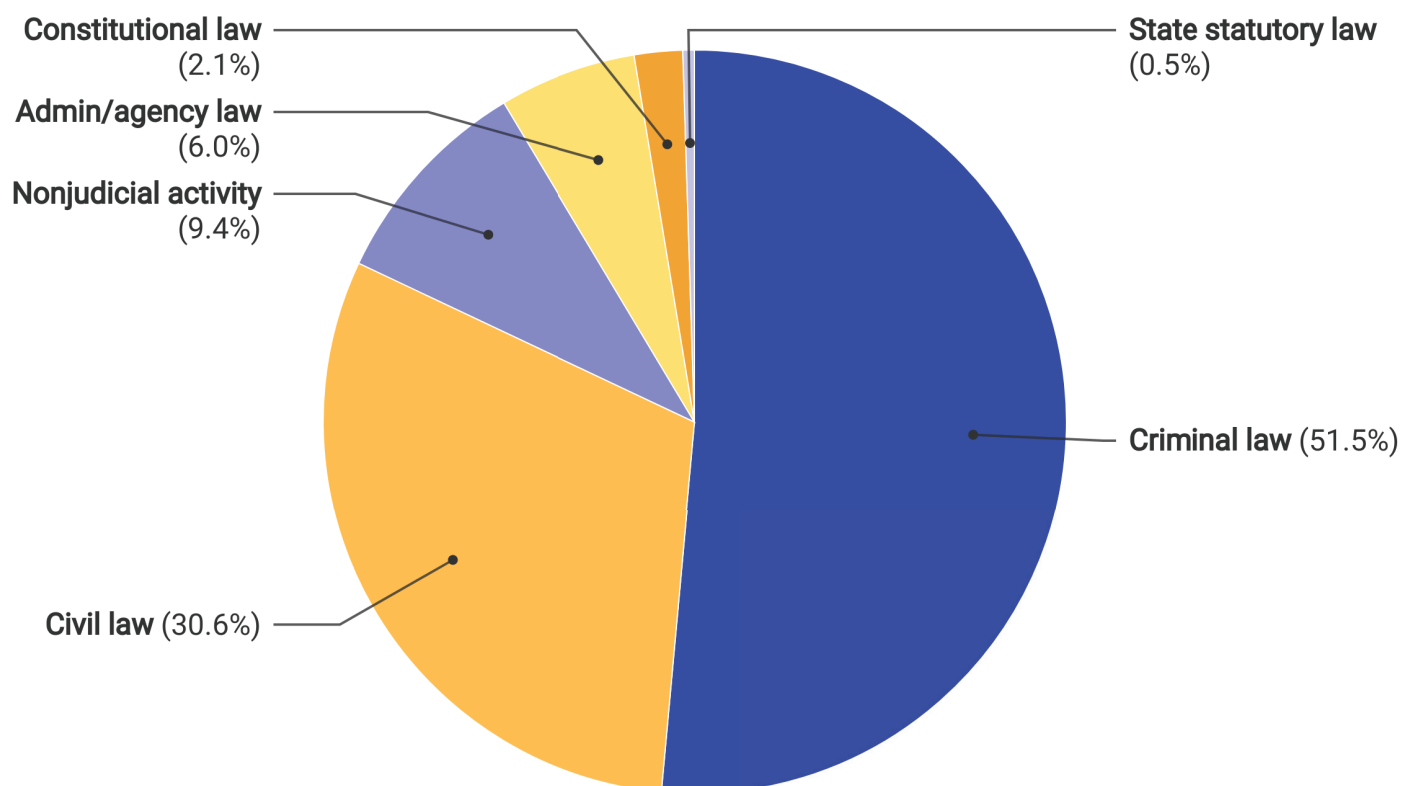
Lone dissenter

There was a lone dissenter in four cases decided by the Delaware Supreme Court in 2020. Justice Vaughn was the lone dissenter in all four of those cases.

COURT JURISDICTION

The Delaware Constitution gives the supreme court appellate jurisdiction in most criminal cases for final judgments that have already been decided by lower courts. It also gives the supreme court discretionary jurisdiction to issue writs of prohibition, quo warranto, certiorari, mandamus and certified questions.

Case types decided by Delaware Supreme Court, 2020



BALLOTPEDIA









The most common case category heard by the Delaware Supreme Court in 2020 was criminal law. Of the 435 cases it heard, 224 were criminal cases, or 51.5 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks

reparations or damages. The Delaware Supreme Court heard 133 civil cases in 2020, or 30.6 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity cases. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Delaware Supreme Court heard 41 nonjudicial activity cases in 2020, or 9.4 percent of its total caseload for the year.

FLORIDA SUPREME COURT

Justices	 John Daniel Couriel	 Carlos Muñiz	 Jorge Labarga	 Ricky Polston	 Charles Canady	 C. Alan Lawson	 Jamie Rutland Crosshans
Confidence Score	Strong Republican	Strong Republican	Mild Republican	Mild Republican	Mild Republican	Mild Republican	N/A
Opinion Partners							
Dissenting Minority							
Determining Majority							
Lone Dissenter							

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **110**
- ▶ Percentage of cases with a unanimous ruling: **86.4% (95)**
- ▶ Justice most often writing the majority opinion: **Justice Lawson (5)**
- ▶ Per curiam decisions: **96**
- ▶ Concurring opinions: **22**
- ▶ Justice with most concurring opinions: **Justice Labarga (16)**
- ▶ Dissenting opinions: **16**
- ▶ Justice with most dissenting opinions: **Justice Labarga (7)**

COURT CONTENTION

Opinion partners

In 2020, two justices dissented together in one case decided by the Florida Supreme Court. Justices Labarga and Polston were the only justices who dissented

together. In our *Ballotpedia Courts: State Partisanship* study, Labarga and Polston recorded Mild Republican Confidence Scores.

Dissenting minority

In 2020, the Florida Supreme Court did not decide any cases by split decision.

Determining majority

In 2020, the Florida Supreme Court did not decide any cases by split decision.

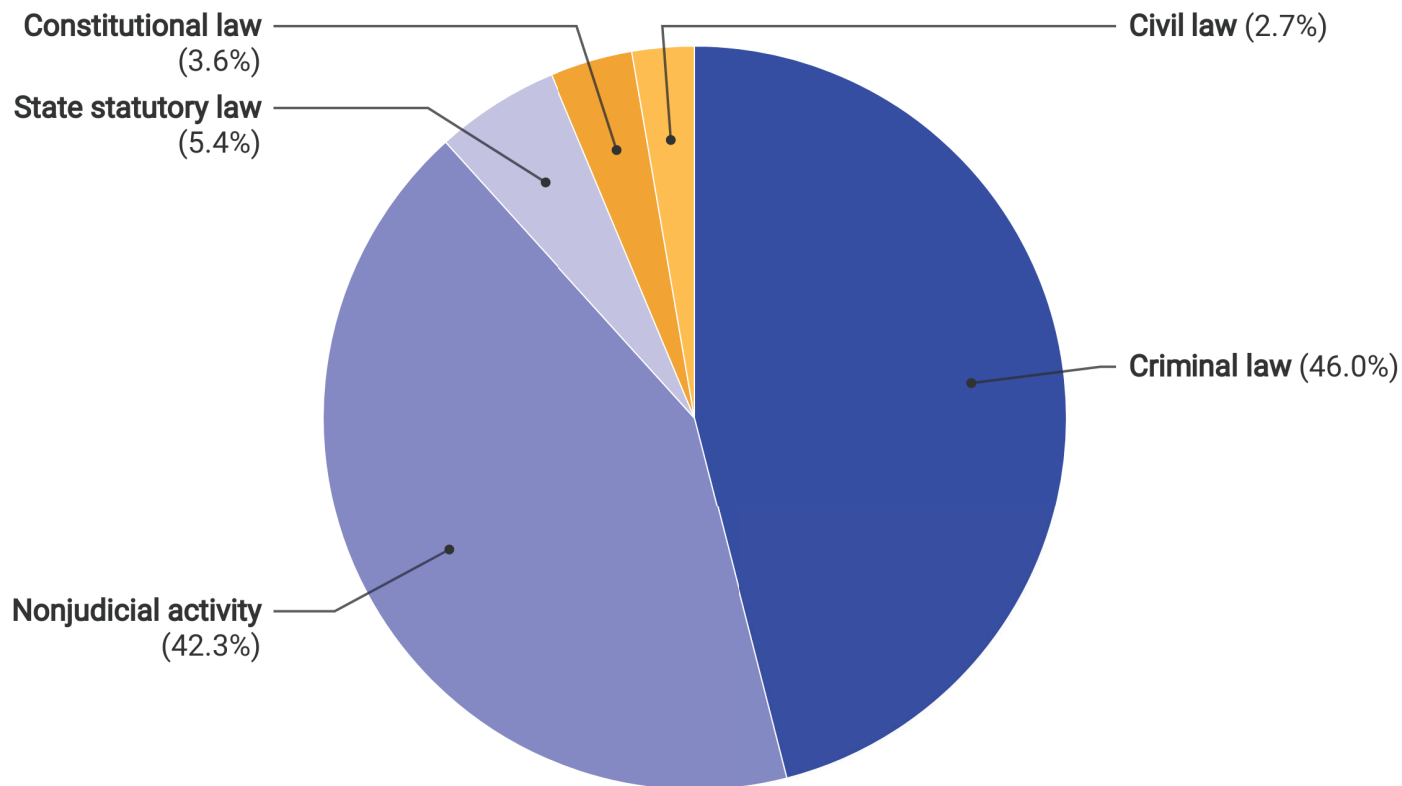
Lone dissenter

In 2020, there was a lone dissenter in ten cases before the Florida Supreme Court. Justice Labarga was the lone dissenter in seven of those cases.

COURT JURISDICTION

The Florida Constitution gives the Supreme Court mandatory appellate jurisdiction over certain types of case, such as death penalty and public utilities cases, discretionary appellate jurisdiction over matters pertaining to the state constitution, and exclusive and non-exclusive jurisdiction over writs of habeas corpus, mandamus, quo warranto, and prohibition. It also hears cases on appeal from the Florida District Courts of Appeal.

Case types decided by Florida Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Florida Supreme Court in 2020 were criminal law cases. Of the 110 cases it heard, 51 were criminal cases, or 46.4 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Florida Supreme Court decided 46 nonjudicial activity cases in 2020, or 41.8 percent of its total caseload for the year.

The third most common cases that reached the court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Florida Supreme Court heard six state statutory cases in 2020, or 5.5 percent of its total caseload for the year.

GEORGIA SUPREME COURT

									
Confidence Score	Mild Republican	Strong Republican	Strong Republican	Indeterminate	Strong Republican	Mild Republican	Indeterminate	Mild Republican	Mild Republican
Opinion Partners									
Dissenting Minority									
Determining Majority									
Lone Dissenter									

SUMMARY

- ▶ Number of justices: **9**
- ▶ Number of cases: **347**
- ▶ Percentage of cases with a unanimous ruling: **96.3% (334)**
- ▶ Justice most often writing the majority opinion: **Justice John Ellington (38)**
- ▶ Per curiam decisions: **35**
- ▶ Concurring opinions: **12**
- ▶ Justice with most concurring opinions: **Justice Keith Blackwell (4)**
- ▶ Dissenting opinions: **11**
- ▶ Justice with most dissenting opinions: **Justice Charlie Bethel (3) and Justice Harold Melton (3)**

COURT CONTENTION

Opinion partners

In 2020, no two justices dissented together in two cases before the Georgia Supreme Court.

Dissenting minority

In 2020, the Georgia Supreme Court did not decide any cases by split decision.

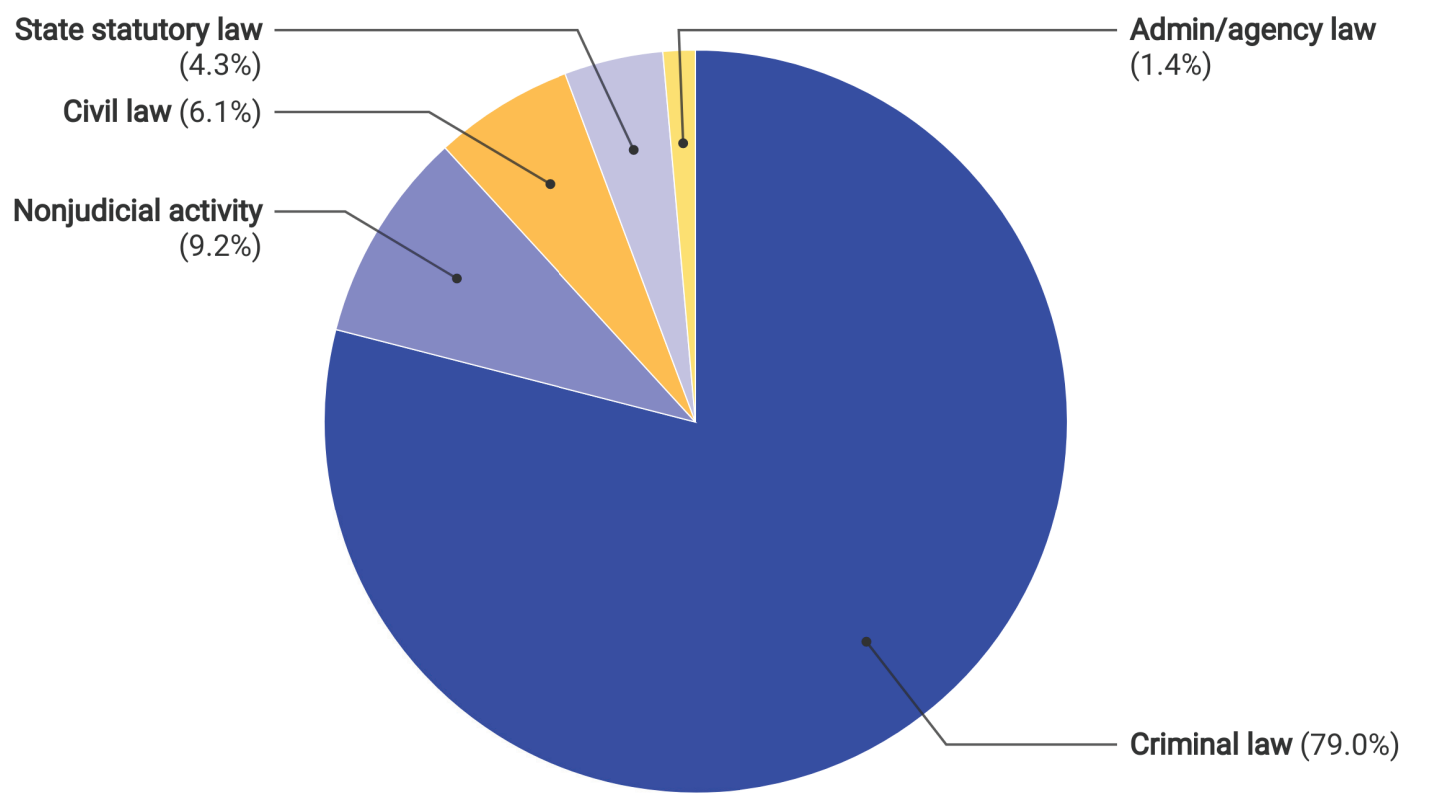
Determining majority

In 2020, the Georgia Supreme Court did not decide any cases by split decision.
Lone dissenter In 2020, there was a lone dissenter in four cases decided by the Georgia Supreme Court. No justice was a lone dissenter in more than one case.

COURT JURISDICTION

The 1983 Georgia Constitution gives the Georgia Supreme Court exclusive appellate jurisdiction over constitutional cases and election contest cases. The court also has general appellate jurisdiction over land title cases, will and equity cases, divorce and alimony cases, certified cases, death penalty cases, and writs of habeas corpus or certiorari. The court may also exercise jurisdiction over Georgia Court of Appeals cases found to be of great public importance.

Case types decided by Georgia Supreme Court, 2020



BALLOTEDIA

The most common case category heard by the Georgia Supreme Court in 2020 was criminal law. Of the 347 cases it heard, 274 were criminal cases, or 79.0 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were nonjudicial

activity cases. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Georgia Supreme Court heard 32 nonjudicial activity cases in 2020, or 9.2 percent of its total caseload for the year.

The third most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Georgia Supreme Court heard 21 civil cases in 2020, or 6.1 percent of its total caseload for the year.

HAWAII SUPREME COURT

Justices					
	Sabrina McKenna	Richard Pollack	Paula Nakayama	Michael Wilson	Mark Recktenwald
Confidence Score	Mild Democrat	Mild Democrat	Mild Democrat	Mild Democrat	Strong Republican
Opinion Partners			✓		✓
Dissenting Minority			✓		✓
Determining Majority	✓	✓		✓	
Lone Dissenter				✓	

SUMMARY

- ▶ Number of justices: **5**
- ▶ Number of cases: **411**
- ▶ Percentage of cases with a unanimous ruling: **89.5% (368)**
- ▶ Justice most often writing the majority opinion: **Justice Sabrina McKenna (38)**
- ▶ Per curiam decisions: **324**
- ▶ Concurring opinions: **3**
- ▶ Justice with most concurring opinions: **Justice Michael Wilson (3)**
- ▶ Dissenting opinions: **42**
- ▶ Justice with most dissenting opinions: **Justice Mark Recktenwald (15)**

COURT CONTENTION

Opinion partners/dissenting minority

In 2020, the Hawaii Supreme Court decided four cases by split decision. In three of those cases, Justices Nakayama and Recktenwald allied in dissent. In our *Ballotpedia Courts: State Partisanship* study, Justice Nakayama recorded a Mild Democratic Confidence Score and Justice Recktenwald recorded a Strong Republican Confidence Score.

Determining majority

In the cases decided by split decision, Justices McKenna, Pollack, and Wilson allied in the majority more frequently than any other three justices. In our *Ballotpedia Courts: State Partisanship* study, Justices McKenna, Pollack, and Wilson recorded Mild Democratic Confidence Scores.

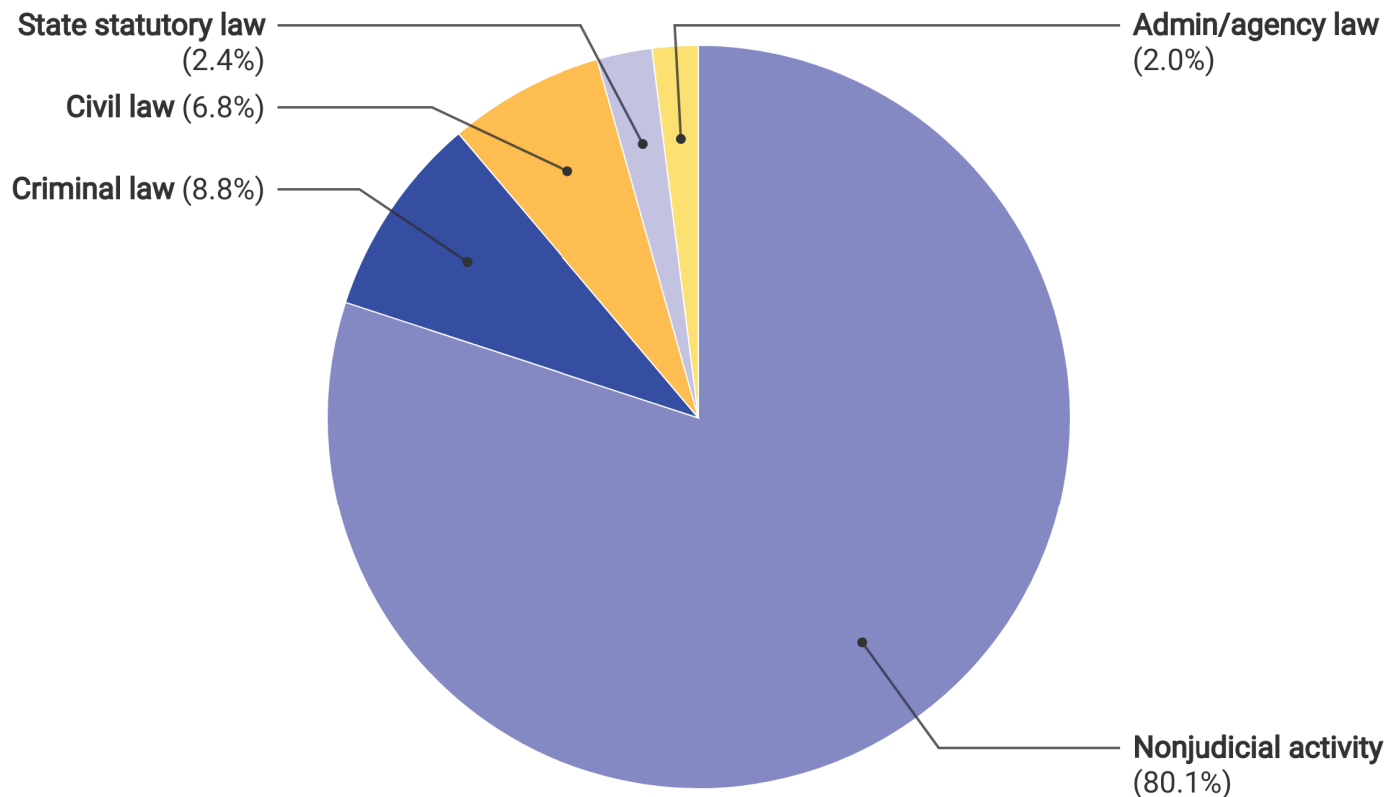
Lone dissenter

In 2020, there was a lone dissenter in 16 cases before the Hawaii Supreme Court. In ten of those cases Justice Wilson was a lone dissenter. In our *Ballotpedia Courts: State Partisanship* study, Justice Wilson recorded a Mild Democratic Confidence Score.

COURT JURISDICTION

The Hawaii Supreme Court has appellate jurisdiction over cases decided in lower courts within the state. These appeals come in the form of reserved and certified questions from lower courts or federal courts and writs of certiorari. The court has exclusive jurisdiction over election cases, rules governing the procedures of all state courts, and regulation and discipline of attorneys and judges.

Case types decided by Hawaii Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the Hawaii Supreme Court in 2020 was nonjudicial activity. Of the 411 cases it heard, 329 were nonjudicial activity cases, or 80.0 percent of its total caseload for the year. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court.

The second most common cases that reached the supreme court were criminal law. A criminal case involves a final criminal appeal before the court of last resort. The Hawaii Supreme Court heard 36 criminal cases in 2020, or 8.8 percent of its total caseload for the year.

The third most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Hawaii Supreme Court heard 28 civil cases in 2020, or 6.8 percent of its total caseload for the year.

IDAHO SUPREME COURT



Justices	Robyn Brody	Roger Burdick	John Stegner	Gregory Moeller	G. Richard Bevan
Confidence Score	Mild Republican	Mild Republican	Strong Republican	Mild Republican	Mild Republican
Opinion Partners					
Dissenting Minority					
Determining Majority					
Lone Dissenter					

SUMMARY

- ▶ Number of justices: **5**
- ▶ Number of cases: **140**
- ▶ Percentage of cases with a unanimous ruling: **90.0% (126)**
- ▶ Justice most often writing the majority opinion: **Justice G. Richard Bevan (29)**
- ▶ Per curiam decisions: **0**
- ▶ Concurring opinions: **8**
- ▶ Justice with most concurring opinions: **Justice John Stegner (5)**
- ▶ Dissenting opinions: **14**
- ▶ Justice with most dissenting opinions: **Justice John Stegner (8)**

COURT CONTENTION

Opinion partners/dissenting minority

In 2020, the Idaho Supreme Court decided five cases by split decision. Justices Burdick and Stegner allied in the dissent in two of those cases, which was more frequently than any other two justices on the court.

Determining majority

The three justices who allied in the majority most frequently on the Idaho Supreme Court were justices Bevan, Brody, and Moeller. Justices Bevan and Brody

were in the majority in four of the five cases decided by split decision.

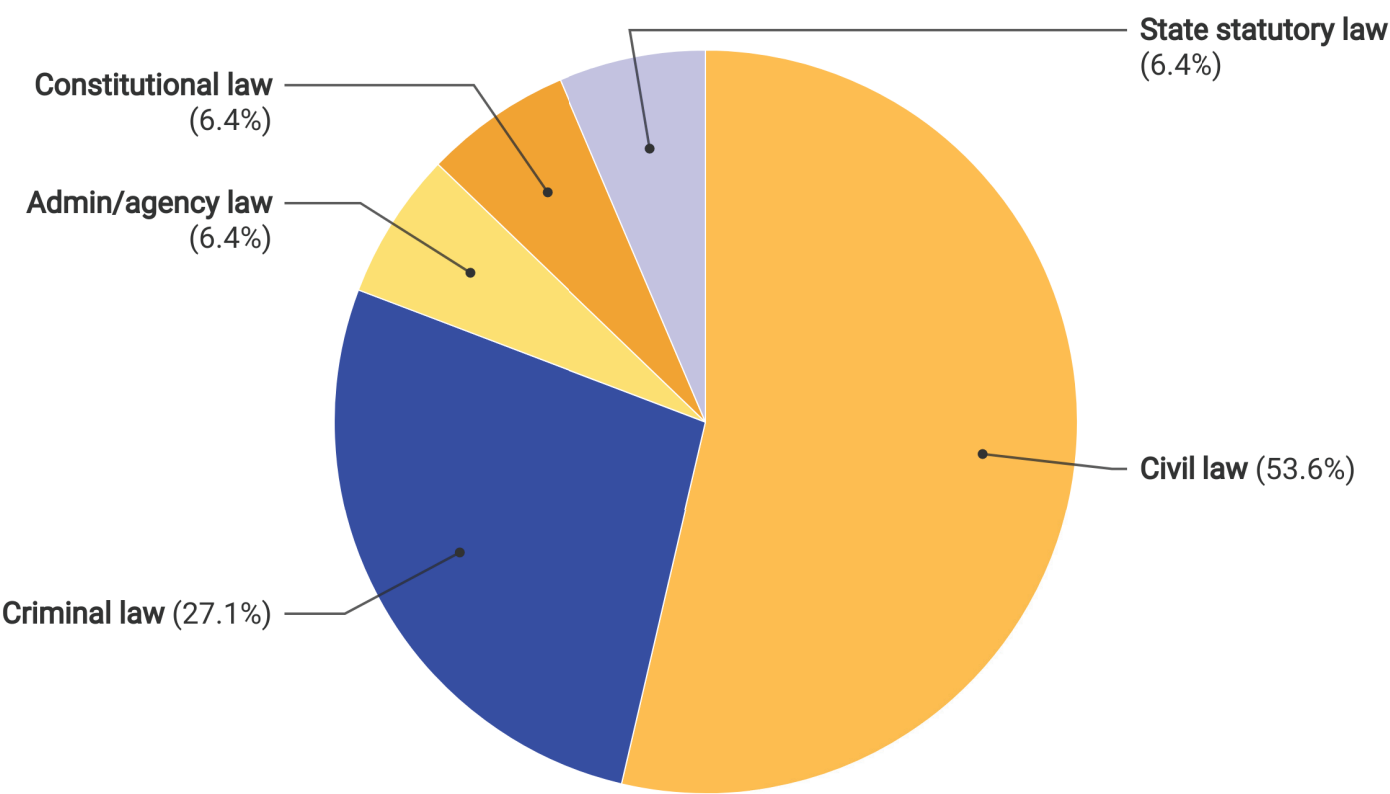
Lone dissenter

There was a lone dissenter in nine cases decided by the Idaho Supreme Court in 2020. Justice Stegner dissented alone four times, which was more frequently than any other justice on the court. In our *Ballotpedia Courts: State Partisanship* study, Justice Stegner recorded a Strong Republican Confidence Score. Justice Stegner was the only justice on the court who recorded a Strong Republican Confidence Score.

COURT JURISDICTION

The 1890 Idaho Constitution gives the Idaho Supreme Court the authority to hear appeals of the final rulings of the district courts, as well as from orders from the Public Utilities Commission, Industrial Accident Commission, and the Idaho Industrial Commission. The court has original jurisdiction to hear cases against the state and to issue writs of review, mandamus, prohibition, and habeas corpus, and all writs necessary for complete exercise of its appellate jurisdiction. Parties may make a further appeal to the supreme court from the Idaho Court of Appeals, or the court may choose to review a decision of the court of appeals.

Case types decided by Idaho Supreme Court, 2020










The most common case category heard by the Idaho Supreme Court in 2020 was civil law. Of the 140 cases it heard, 75 were civil cases, or 53.6 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal law. A criminal case involves a final criminal appeal before the court of last resort. The Idaho Supreme Court heard 38 criminal cases in 2020, or 27.1 percent of its total caseload for the year.

The third most common cases that reached the court were tied between administrative law cases, constitutional law, and state statutory law. The Idaho Supreme Court heard nine cases in each category in 2020, or 6.4 percent of its total caseload for the year per category. An administrative law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. A constitutional case is one that involves the violation of a right expressly protected by the Constitution of the United States. A state statutory case involves the violation or enforcement of a state statute.

ILLINOIS SUPREME COURT

Justices							
	Rita Garman	Mary Jane Theis	Thomas Kilbride	P. Scott Neville	Anne M. Burke	Michael J. Burke	Lloyd Karmeier
Confidence Score	Mild Republican	Strong Democrat	Mild Democrat	Strong Democrat	Strong Democrat	Mild Republican	Mild Republican
Opinion Partners				✓	✓		
Dissenting Minority	✓	✓				✓	✓
Determining Majority		✓	✓	✓	✓		✓
Lone Dissenter			✓	✓			

SUMMARY

- ▶ Number of justices: **7**
- ▶ Number of cases: **63**
- ▶ Percentage of cases with a unanimous ruling: **69.8% (44)**
- ▶ Justice most often writing the majority opinion: **Justice Theis (11)**
- ▶ Per curiam decisions: **2**
- ▶ Concurring opinions: **7**

- ▶ Justice with most concurring opinions: **Justices A. Burke, Karmeier, and Kilbride (2)**
- ▶ Dissenting opinions: **20**
- ▶ Justice with most dissenting opinions: **Justice Neville (8)**

COURT CONTENTION

Opinion partners

In 2020 the Illinois Supreme Court decided seven cases 5-2. Justices A. Burke and Neville allied in dissent in two of those cases and allied in one case decided 4-3. In our *Ballotpedia Courts: State Partisanship* study Justices A. Burke and Neville recorded Strong Democratic Confidence Scores.

Dissenting minority

In 2020 the Illinois Supreme Court decided three cases by split decision. Justice Garman was in the dissent in all three of those cases. She was joined by Justice M. Burke twice. In one of those cases Justice Theis allied with them, and in another case Justice Karmeier allied with them. In our *Ballotpedia Courts: State Partisanship* study, Justices M. Burke and Garman recorded Mild Republican Confidence Scores. Justice Karmeier recorded a Mild Republican Confidence Score and Justice Theis recorded a Strong Democratic Confidence Score.

Determining majority

In the three cases decided by split decision, Justice Kilbride was the only justice in the majority in all three cases. Justices A. Burke and Neville were in the majority together in two split cases and dissented together in one case. Justices Theis and Karmeier each dissented once with the minority justices who recorded two Confidence Scores, and were in the majority twice.

Lone dissenter

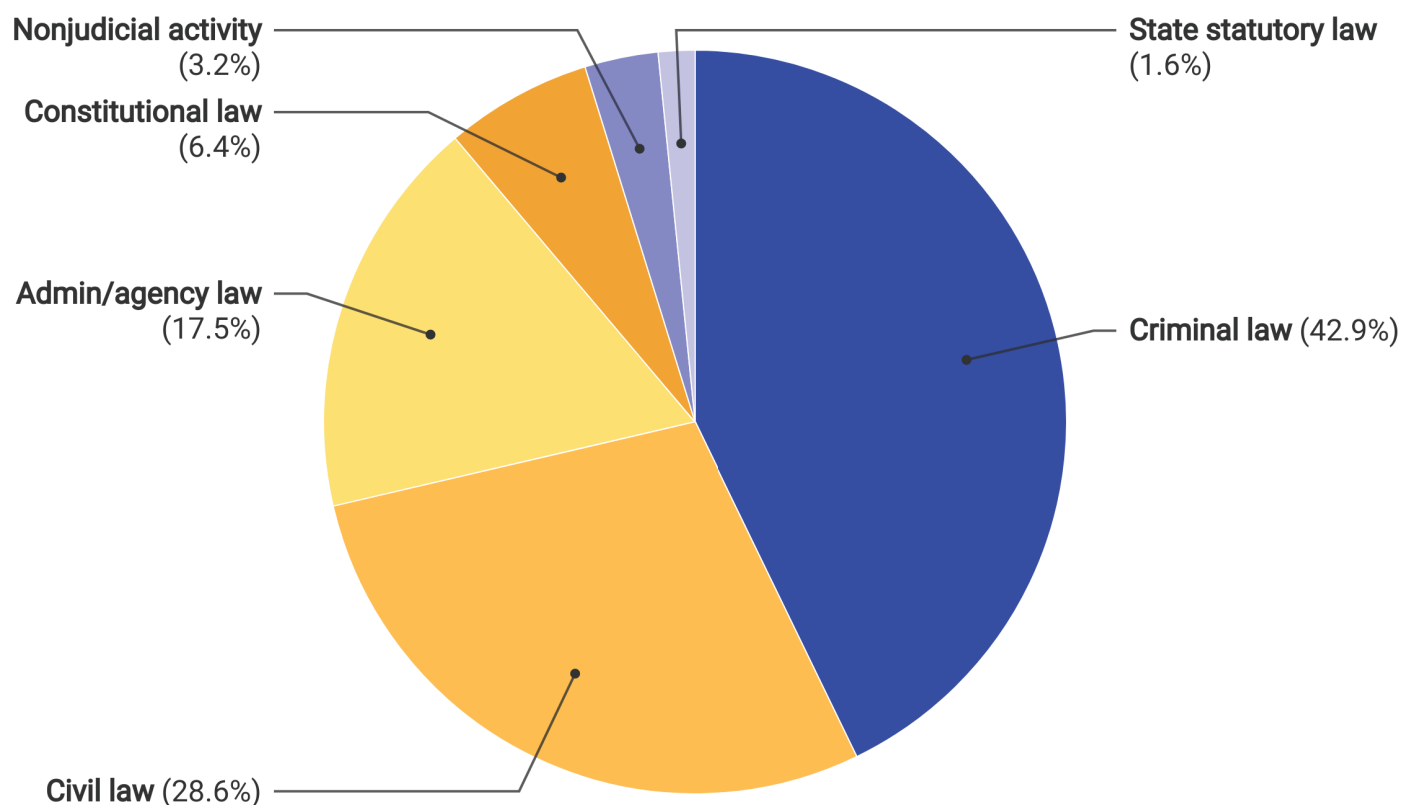
In 2020 there was a lone dissenter in seven cases decided by the Illinois Supreme Court. Justices Neville and Kilbride were lone dissenters in two cases each.

COURT JURISDICTION

The Illinois Supreme Court has limited original jurisdiction, hears appeals of right in cases where the constitutionality of laws has been called into question, and has a docket of discretionary appeal from the Illinois Appellate Court. Along with the state legislature, the court sets rules for the state judiciary. The court has general administrative and supervisory authority over all courts in the state, which is exercised by the chief justice with the assistance of the administrative director and staff appointed by the supreme court. The supreme court hears

appeals from lower courts and may exercise original jurisdiction in cases relating to revenue, mandamus, prohibition, or habeas corpus. Its members also have the authority to appoint trial judges to the appellate court on a temporary basis.

Case types decided by Illinois Supreme Court, 2020










BALLOTPEDIA

The most common cases heard by the Illinois Supreme Court in 2020 were criminal cases. Of the 63 cases it heard, 27 were criminal cases, or 42.9 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Illinois Supreme Court heard 18 civil cases in 2020, or 28.6 percent of its total caseload for the year.

The third most common cases that reached the court were administrative law cases. An administrative law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. The Illinois Supreme Court heard 11 admin law cases in 2020, or 17.5 percent of its total caseload for the year.

IOWA SUPREME COURT

Justices	 Matthew McDermott	 Edward Mansfield	 Thomas Waterman	 Brent Appel	 Christopher McDonald	 Susan Christensen	 Dana Oxley
Confidence Score	Strong Republican	Indeterminate	Mild Republican	Strong Democrat	Mild Republican	Mild Republican	Mild Republican
Opinion Partners				✓			
Dissenting Minority				✓	✓		✓
Determining Majority	✓	✓	✓			✓	
Lone Dissenter				✓			

SUMMARY

- ▶ Number of justices: **7 (Vacancies occurred mid-2020)**
- ▶ Number of cases: **103**
- ▶ Percentage of cases with a unanimous ruling: **68.0% (70)**
- ▶ Justice most often writing the majority opinion: **Justice Edward Mansfield (21)**
- ▶ Per curiam decisions: **13**
- ▶ Concurring opinions: **16**
- ▶ Justice with most concurring opinions: **Justice Brent Appel (13)**
- ▶ Dissenting opinions: **38**
- ▶ Justice with most dissenting opinions: **Justice Brent Appel (20)**

COURT CONTENTION

Opinion partners

In 2020 the Iowa Supreme Court decided 10 cases 5-2. In five of those cases, Justices Appel and Wiggins were opinion partners. In our *Ballotpedia Courts: State Partisanship* study, Justice Appel recorded a Strong Democratic Confidence Score. Justice Wiggins retired in February of 2020, so he did not record a Confidence Score in our study.

Dissenting minority

In 2020 the Iowa Supreme Court decided five cases 4-3. Justices Appel, McDonald, and Oxley allied in the minority in two cases, which was more than any other three justices on the court. Justices Appel and Oxley allied in the minority three times. In our *Ballotpedia Courts: State Partisanship* study, Justice Appel recorded a Strong Democratic Confidence Score and Justices McDonald and Oxley recorded Mild Republican Confidence Scores.

Determining majority

In 2020 Justices Christensen, Mansfield, McDermott, and Waterman were in the majority in two of the split decisions before the Iowa Supreme Court. In our *Ballotpedia Courts: State Partisanship* study, Justices Christensen and Waterman recorded Mild Republican Confidence Scores, Justice Mansfield recorded an Indeterminate Confidence Score, and Justice McDermott recorded a Strong Republican Confidence Score.

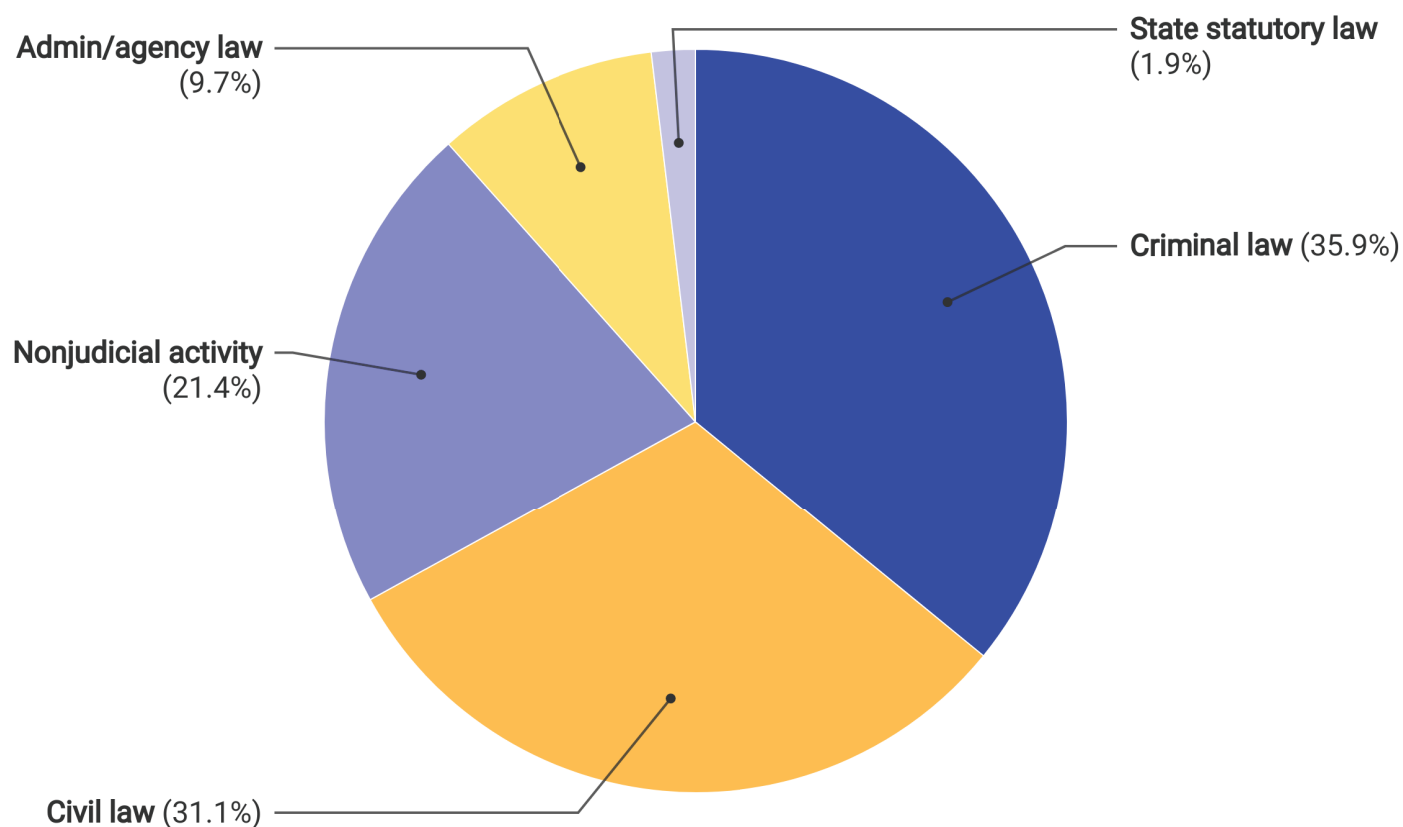
Lone dissenter

Justice Brent Appel dissented alone eight times in 2020, which was more than any other justice on the court. In our *Ballotpedia Courts: State Partisanship* study, Justice Appel recorded a Strong Democratic Confidence Score.

COURT JURISDICTION

All appeals in Iowa go first to the state supreme court, which then decides to take on the appeal or send it down to the Iowa Court of Appeals. The supreme court also has administrative and supervisory powers over the state's judiciary.

Case types decided by Iowa Supreme Court, 2020











BALLOTPEDIA

The most common case category heard by the Iowa Supreme Court in 2020 was criminal law. Of the 103 cases it heard, 37 were criminal cases, which was 35.9 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Iowa Supreme Court heard 32 civil cases in 2020, or 31.1 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity cases. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Iowa Supreme Court heard 22 nonjudicial activity cases in 2020, or 21.4 percent of its total caseload for the year.

KANSAS SUPREME COURT

Justices							
Confidence Score	Mild Republican	Mild Democrat	Mild Democrat	Strong Republican	Mild Democrat	Mild Democrat	Not Scored
Opinion Partners							
Dissenting Minority							
Determining Majority							
Lone Dissenter							

SUMMARY

- ▶ Number of justices: **7 (two vacancies throughout 2020)**
- ▶ Number of cases: **120**
- ▶ Percentage of cases with a unanimous ruling: **90.0% (108)**
- ▶ Justice most often writing the majority opinion: **Justice Daniel Biles (20)**
- ▶ Per curiam decisions: **17**
- ▶ Concurring opinions: **16**
- ▶ Justice with most concurring opinions: **Justice Caleb Stegall (5)**
- ▶ Dissenting opinions: **13**
- ▶ Justice with most dissenting opinions: **Justice Daniel Biles (5)**

COURT CONTENTION

Opinion partners

In 2020, the Kansas Supreme Court decided five cases 5-2. Justices Beier and Rosen were opinion partners in two of those cases. Justice Biles and Rosen were opinion partners in one of those cases and allied in dissent in one split decision. In our *Ballotpedia Courts: State Partisanship* study, Justices Beier, Biles, and Rosen each recorded a Mild Democratic Confidence Score.

Dissenting minority

In 2020, two cases before the Kansas Supreme Court were decided by split decision. Justices Stegall and Biles were in the dissent in both of those cases. They were joined once by Justice Rosen and once by Justice Luckert. In our *Ballotpedia Courts: State Partisanship* study, Justice Biles recorded a Mild Democratic Confidence Score, Justice Luckert recorded a Mild Republican Confidence Score, Justice Rosen recorded a Mild Democratic Confidence Score, and Justice Stegall recorded a Strong Republican Confidence Score.

Determining majority

In the two cases decided by split decision in 2020, Justice Beier was the only justice in the majority in both cases. Because of vacancies throughout the year it is not possible to discern a determining majority on the court.

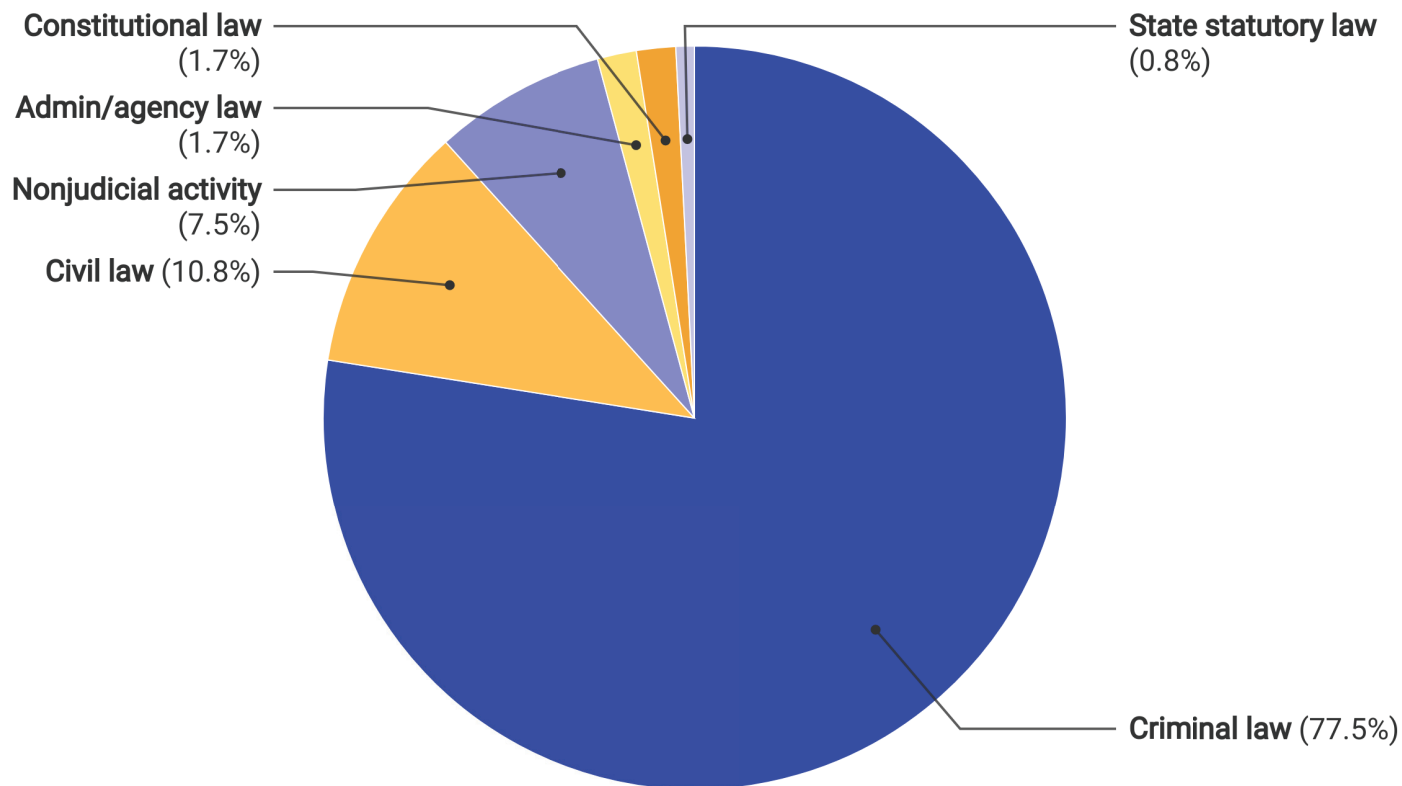
Lone dissenter

In 2020, five cases before the Kansas Supreme Court were decided 6-1. Justice Stegall was a lone dissenter in three of those cases, which was more frequently than any of his colleagues. In our *Ballotpedia Courts: State Partisanship* study, Justice Stegall recorded a Strong Republican Confidence Score.

COURT JURISDICTION

The Kansas Supreme Court has mandatory jurisdiction in the following types of cases, according to the now-defunct American Judicature Society: “civil, criminal, administrative agency, disciplinary, certified questions from federal courts, original proceeding cases.” It has discretionary jurisdiction in the following types of cases: “civil, criminal, administrative agency, juvenile, original proceeding, and interlocutory decision cases.”

Case types decided by Kansas Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the Kansas Supreme Court in 2020 was criminal law. Of the 120 cases it heard, 93 were criminal cases, or 77.5 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil law. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Kansas Supreme Court heard 13 civil cases in 2020, or 10.8 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity cases. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Kansas Supreme Court heard nine nonjudicial activity cases in 2020, or 7.5 percent of its total caseload for the year.

KENTUCKY SUPREME COURT

Justices	 Christopher Nickell	 Debra Lambert	 Samuel T. Wright III	 Laurance VanMeter	 John Minton	 Lisabeth Hughes	 Michelle Keller
Confidence Score	Mild Democrat	Mild Republican	Indeterminate	Mild Republican	Indeterminate	Indeterminate	Mild Democrat
Opinion Partners							
Dissenting Minority							
Determining Majority							
Lone Dissenter							

- ▶ Number of justices: **7**
- ▶ Number of cases: **200**
- ▶ Percentage of cases with a unanimous ruling: **92.5% (185)**
- ▶ Justice most often writing the majority opinion: **Justice Michelle Keller (15)**
- ▶ Per curiam decisions: **129**
- ▶ Concurring opinions: **8**
- ▶ Justice with most concurring opinions: **Justice Michelle Keller (3)**
- ▶ Dissenting opinions: **17**
- ▶ Justice with most dissenting opinions: **Justice Laurance VanMeter (4) and Justice Michelle Keller (4)**

COURT CONTENTION

Opinion partners

In 2020, the Kentucky Supreme Court decided three cases 5-2. No justices consistently allied in dissent.

Dissenting minority

In 2020, the Kentucky Supreme Court decided two cases by split decision. No justice dissented in both of the cases decided by split decision. Therefore, it is not

possible to discern a dissenting minority with the existing data.

Determining majority

Justice Lambert was the only justice in the majority in both cases decided by split decision before the Kentucky Supreme Court. There was a different majority in each case. Therefore, it is not possible to discern a determining majority with the existing data.

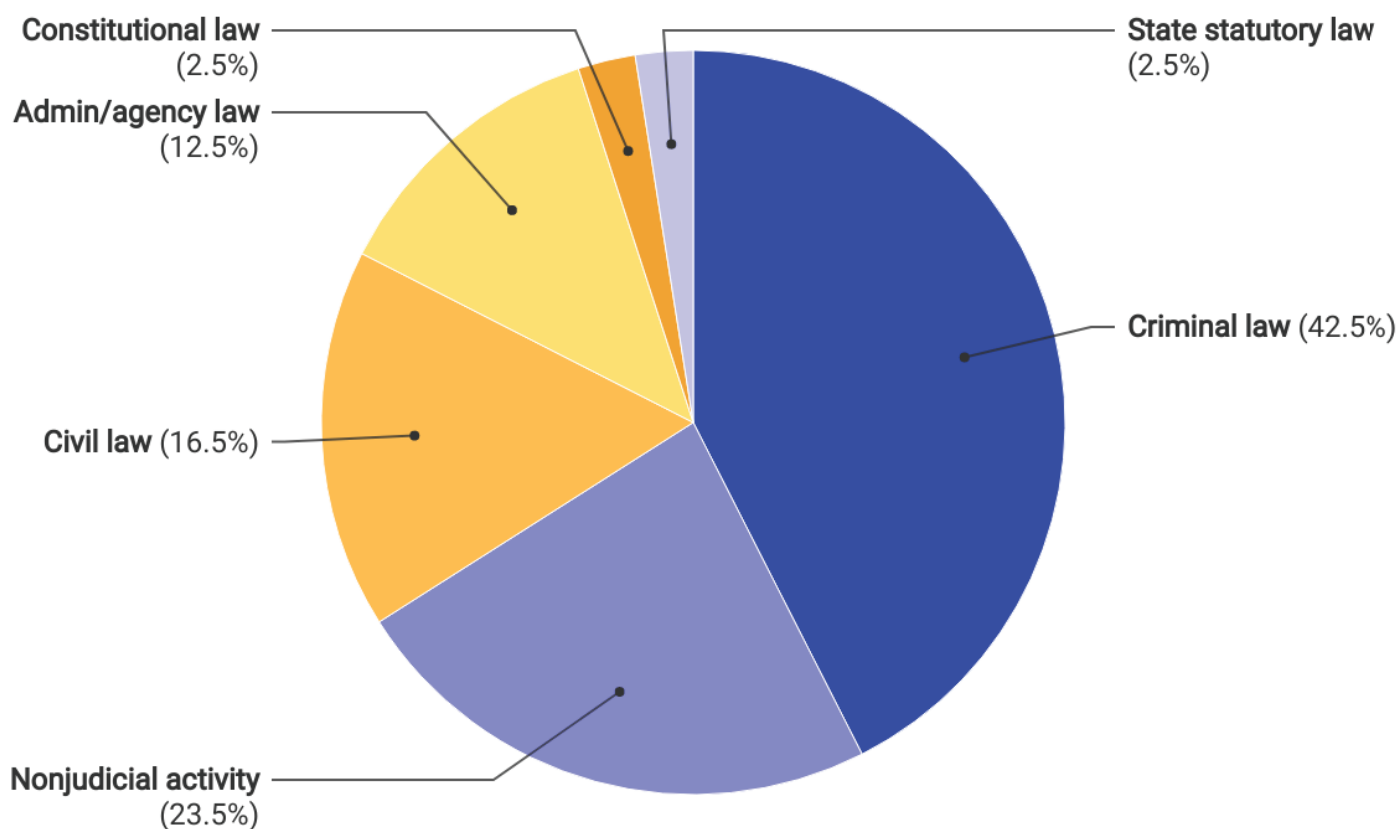
Lone dissenter

In 2020, four cases before the Kentucky Supreme Court were decided 6-1. Justice Lambert was a lone dissenter in two of those cases. In our *Ballotpedia Courts: State Partisanship* study, Justice Lambert recorded a Mild Republican Confidence Score.

COURT JURISDICTION

All appeals involving imprisonment for 20 years or more, life imprisonment, or the death penalty go directly to the Kentucky Supreme Court; all other appeals are heard by the lower courts, and are only permitted to be heard by the supreme court if the court of appeals consents.

Case types decided by Kentucky Supreme Court, 2020









The most common case category heard by the Kentucky Supreme Court in 2020 was criminal law. Of the 200 cases it heard, 85 were criminal cases, or 42.5 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were nonjudicial activity law. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Kentucky Supreme Court heard 47 nonjudicial activity cases in 2020, or 23.5 percent of its total caseload for the year.

The third most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Kentucky Supreme Court heard 33 civil cases in 2020, or 16.5 percent of its total caseload for the year.

MAINE SUPREME COURT

Justice	 Catherine Connors	 Andrew Horton	 Ellen Gorman	 Andrew Mead	 Joseph Jabar	 Thomas Humphrey
Confidence Score	Indeterminate	Mild Democrat	Mild Democrat	Mild Democrat	Strong Democrat	Indeterminate
Opinion Partners						
Dissenting Minority						
Determining Majority						
Lone Dissenter					✓	

- ▶ Number of justices: **7 (vacancies occurred mid-2020)**
- ▶ Number of cases: **143**
- ▶ Percentage of cases with a unanimous ruling: **92.3% (132)**
- ▶ Justice most often writing the majority opinion: **Justice Andrew Mead (21)**
- ▶ Per curiam decisions: **36**
- ▶ Concurring opinions: **3**
- ▶ Justice with most concurring opinions: **Justice Catherine Connors (1), Justice Andrew Horton (1), and Justice Donald Alexander (1)**
- ▶ Dissenting opinions: **9**
- ▶ Justice with most dissenting opinions: **Justice Joseph Jabar (5)**

COURT CONTENTION

Opinion partners

In 2020, two cases before the Maine Supreme Judicial Court were decided 4-2. In one of those cases Justices Jabar and Mead allied in dissent, and in one of those cases Justice Jabar and Substitute Justice Alexander allied in dissent. In our *Ballotpedia Courts: State Partisanship* study, Justice Jabar recorded a Strong Democratic Confidence Score and Justice Mead recorded a Mild Democratic Confidence Score.

Dissenting minority

In 2020, three justices dissented in one case before the Maine Supreme Judicial Court. Justices Connors, Horton, and Jabar allied in dissent in that case. In our *Ballotpedia Courts: State Partisanship* study, Justice Connors recorded an Indeterminate Confidence Score, Justice Horton recorded a Mild Democratic Confidence Score, and Justice Jabar recorded a Strong Democratic Confidence Score.

Determining majority

In the one case in which three justices dissented, the three justices in the majority were Justices Gorman, Humphrey, and Mead. In our *Ballotpedia Courts: State Partisanship* study, Justices Gorman and Mead recorded Mild Democratic Confidence Scores and Justice Humphrey recorded an Indeterminate Confidence Score.

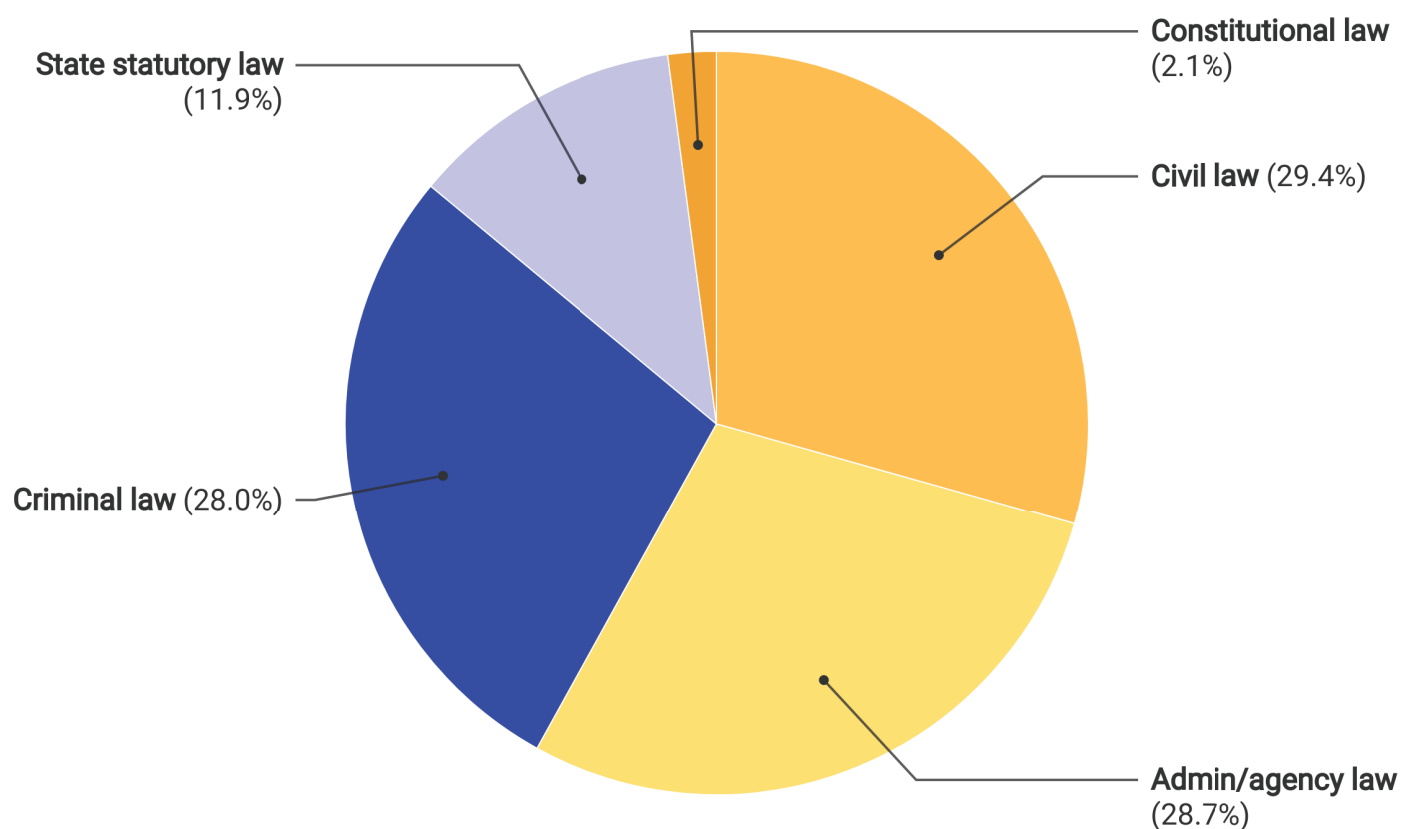
Lone dissenter

In 2020, there was a lone dissenter in seven cases decided by the Maine Supreme Judicial Court. Justice Jabar was a lone dissenter in six of those cases. In our *Ballotpedia Courts: State Partisanship* study, Justice Jabar recorded a Strong Democratic Confidence Score.

COURT JURISDICTION

The court has appellate jurisdiction of all cases. Additionally, the Maine Supreme Judicial Court is one of the few state supreme courts that is authorized to issue advisory opinions. These advisory opinions are issued at the request of either the Executive Branch or the Legislative Branch.

Case types decided by Maine Supreme Judicial Court, 2020







BALLOTPEDIA

The most common case category heard by the Maine Supreme Judicial Court in 2020 was civil cases. Of the 143 cases it heard, 42 were civil cases, or 29.4 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were administrative law cases. An administrative law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. The Maine Supreme Judicial Court heard 41 admin/agency cases in 2020, or 28.7 percent of its total caseload for the year.

The third most common cases that reached the court were criminal cases. A criminal case involves a final criminal appeal before the court of last resort. The Maine Supreme Judicial Court heard 40 criminal cases in 2020, or 28.0 percent of its total caseload for the year.

MARYLAND COURT OF APPEALS

Justices	 Mary Ellen Barbera	 Robert McDonald	 Shirley Marie Watts	 Jonathan Biran	 Michele D. Hotten	 Brynja McDivitt Booth	 Joseph Getty
Confidence Score	Mild Democrat	Mild Democrat	Mild Democrat	Indeterminate	Indeterminate	Indeterminate	Strong Republican
Opinion Partners							
Dissenting Minority		✓		✓			✓
Determining Majority	✓		✓		✓	✓	
Lone Dissenter			✓				

- ▶ Number of justices: **7**
- ▶ Number of cases: **149**
- ▶ Percentage of cases with a unanimous ruling: **86.6% (129)**
- ▶ Justice most often writing the majority opinion: **Justice Robert McDonald (38)**
- ▶ Per curiam decisions: **10**
- ▶ Concurring opinions: **13**
- ▶ Justice with most concurring opinions: **Justice Shirley Marie Watts (5)**
- ▶ Dissenting opinions: **20**
- ▶ Justice with most dissenting opinions: **Justice Shirley Marie Watts (7)**

COURT CONTENTION

Opinion partners

In 2020, the Maryland Court of Appeals decided six cases 5-2. No justices frequently allied together in those cases. Justices Hotten and Watts allied in the dissent twice in those cases, which was more frequently than any other pair of justices. In our *Ballotpedia Courts: State Partisanship* study, Justice Hotten recorded an Indeterminate Confidence Score and Justice Watts recorded a Mild Democratic Confidence Score.

Dissenting minority

In 2020, the Maryland Court of Appeals decided four cases by split decision. In two of those cases Justices Biran, McDonald, and Getty were the dissenting minority. In our *Ballotpedia Courts: State Partisanship* study, Justice Biran recorded an Indeterminate Confidence Score, Justice Getty recorded a Strong Republican Confidence Score, and Justice McDonald recorded a Mild Democratic Confidence Score.

Determining majority

In two of the cases decided by split decision, Justices Barbera, Booth, Hotten, and Watts were in the majority. In our *Ballotpedia Courts: State Partisanship* study, Justices Barbera and Watts recorded Mild Democratic Confidence Scores and Justices Booth and Hotten recorded Indeterminate Confidence Scores.

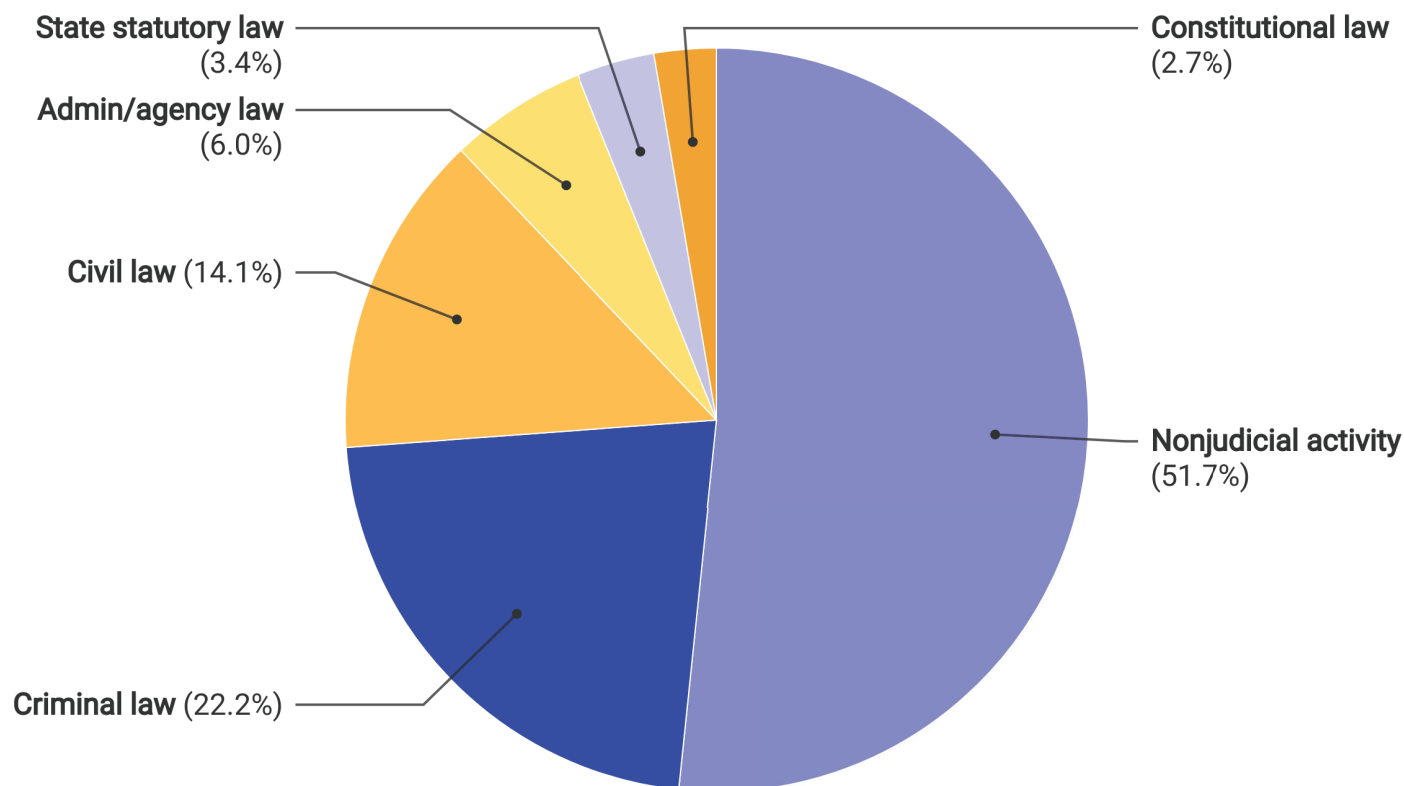
Lone dissenter

Justice Watts dissented alone six times in 2020, which was more than any other justice on the court. In our *Ballotpedia Courts: State Partisanship* study, Justice Watts recorded a Mild Democratic Confidence Score.

COURT JURISDICTION

The Court of Appeals has exclusive jurisdiction over death penalty appeals, cases involving legislative redistricting, and issues concerning removal of elected officials and is responsible for answering broad legal questions. The court has authority to make administrative, practical and procedural rules, all of which have “the force of law.” The Court of Appeals is also responsible for determining admission to the state bar and is in charge of disciplinary proceedings for ethical and legal violations by lawyers and the judiciary.

Case types decided by Maryland Court of Appeals, 2020










BALLOTPEDIA

The most common case category heard by the Maryland Court of Appeals in 2020 was nonjudicial activity law. Of the 149 cases it heard, 77 were nonjudicial activity cases, or 51.7 percent of its total caseload for the year. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The Maryland Court of Appeals heard 33 criminal cases in 2020, or 22.1 percent of its total caseload for the year.

The third most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Maryland Court of Appeals heard 21 civil cases in 2020, or 14.1 percent of its total caseload for the year.

MASSACHUSETTS SUPREME JUDICIAL COURT

Justices	 Barbara Lenk	 Ralph Gants	 Elspeth Cypher	 David Lowy	 Frank Gaziano	 Scott Kafker	 Kimberly S. Budd
Confidence Score	Mild Democrat	Mild Democrat	Mild Republican	Mild Republican	Indeterminate	Mild Republican	Indeterminatet
Opinion Partners							
Dissenting Minority							
Determining Majority							
Lone Dissenter							

- ▶ Number of justices: **7**
- ▶ Number of cases: **194**
- ▶ Percentage of cases with a unanimous ruling: **98.5% (191)**
- ▶ Justice most often writing the majority opinion: **Justice Kafker (25)**
- ▶ Per curiam decisions: **51**
- ▶ Concurring opinions: **16**
- ▶ Justice with most concurring opinions: **Justice Gants (7)**
- ▶ Dissenting opinions: **1**
- ▶ Justice with most dissenting opinions: **Justice Lowy (1)**

COURT CONTENTION

Opinion partners

In 2020, the Massachusetts Supreme Judicial Court decided zero cases 5-2. Therefore, it is not possible to discern **opinion partners** from the existing data.

Dissenting minority

In 2020, the Massachusetts Supreme Judicial Court decided zero cases by split decision. Therefore, it is not possible to discern a **dissenting minority** from the existing data.

Determining majority

In 2020, the Massachusetts Supreme Judicial Court decided zero cases by split decision. Therefore, it is not possible to discern a determining majority from the existing data.

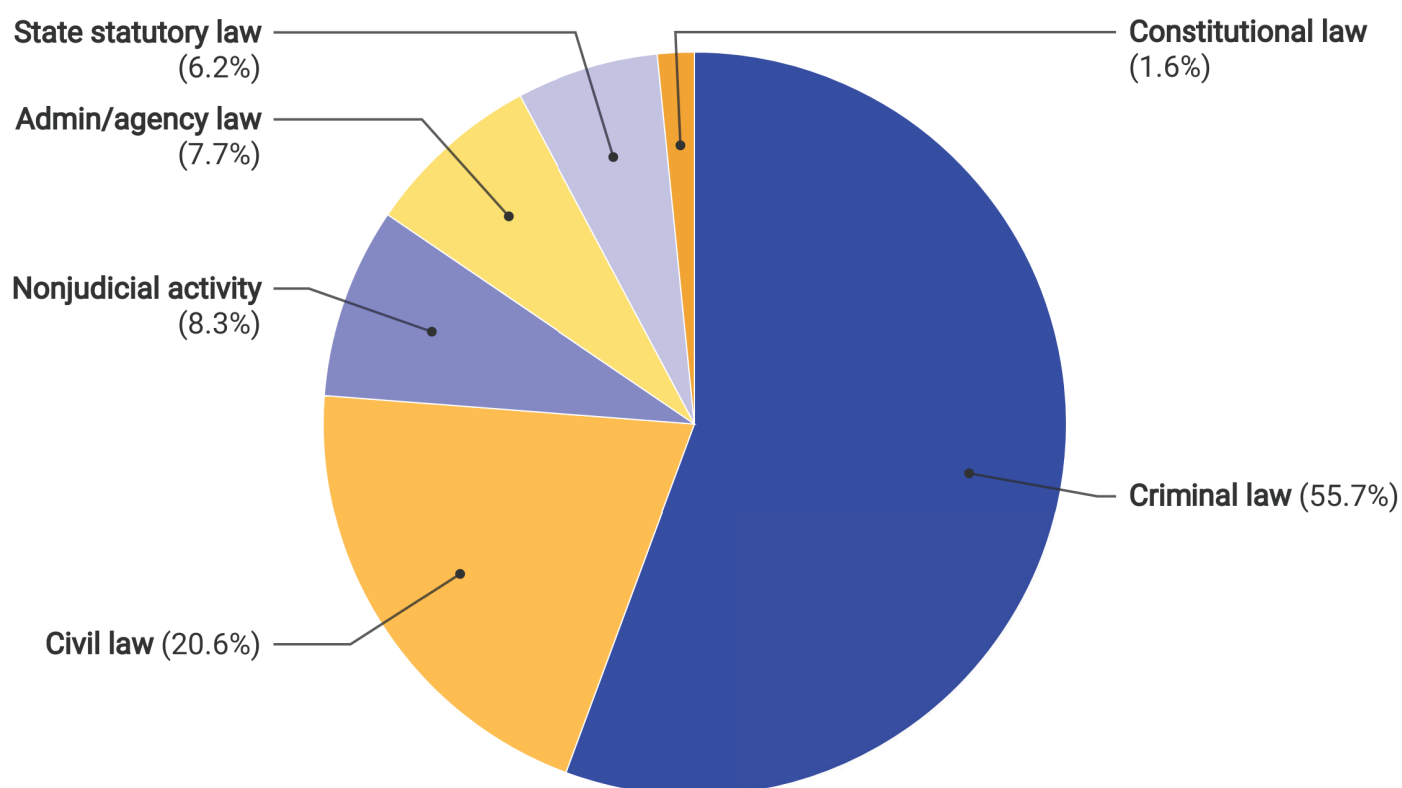
Lone dissenter

In 2020, there was a lone dissenter in one case before the Massachusetts Supreme Judicial Court. Justice Lowy was the lone dissenter in the one case decided 6-1. In our *Ballotpedia Courts: State Partisanship* study, Justice Lowy recorded a Mild Republican Confidence Score.

COURT JURISDICTION

The Massachusetts Supreme Judicial Court has the distinction of being the oldest continuously functioning appellate court in the Western Hemisphere. The court hears appeals of criminal and civil cases. It may also issue advisory opinions if requested by the governor or state legislature. The court is also the administrative head of the state judiciary and bar.

Case types decided by Massachusetts Supreme Judicial Court, 2020










The most common cases heard by the Massachusetts Supreme Judicial Court in 2020 were criminal cases. Of the 194 cases it heard, 101 were criminal cases, which was 52.1 percent of the court's caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Massachusetts Supreme Judicial Court heard 40 civil cases in 2020, which was 20.6 percent of its total caseload for the year.

The third most common cases that reached the court were non-judicial. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. An example of nonjudicial activity before the Massachusetts Supreme Judicial Court is a disciplinary hearing for a lawyer to become disbarred in the state. The court hears such disputes due to its role as administrative head of the state judiciary bar. The Massachusetts Supreme Judicial Court heard 16 cases considered nonjudicial activity in 2020.

MINNESOTA SUPREME COURT

Justices							
	David Lillehaug	Paul Thissen	Margaret Chutich	Natalie Hudson	Anne McKeig	Lorie Gildea	Barry Anderson
Confidence Score	Strong Democrat	Strong Democrat	Mild Democrat	Mild Democrat	Indeterminate	Mild Republican	Mild Republican
Opinion Partners						✓	✓
Dissenting Minority					✓	✓	✓
Determining Majority	✓	✓	✓	✓			
Lone Dissenter							

- ▶ Number of justices: **7**
- ▶ Number of cases: **106**
- ▶ Percentage of cases with a unanimous ruling: **74.5% (79)**
- ▶ Justice most often writing the majority opinion: **Justice McKeig (78)**
- ▶ Per curiam decisions: **13**
- ▶ Concurring opinions: **8**
- ▶ Justice with most concurring opinions: **Justice Thissen (4)**
- ▶ Dissenting opinions: **16**

- ▶ Justice with most dissenting opinions: **Justice Gildea (5) and Anderson (5)**

COURT CONTENTION

Opinion partners

In 2020, 11 cases before the Minnesota Supreme Court were decided 5-2. Justices Gildea and Anderson dissented together in those cases eight times in 2020. They also allied together in one case decided 4-3 and in six cases **concurring in part and dissenting in part**. In our *Ballotpedia Courts: State Partisanship* study they both recorded Mild Republican Confidence Scores. They were the only justices on the court who recorded Republican Confidence Scores.

Dissenting minority

In 2020, one case before the Minnesota Supreme Court was decided by split decision. In that case, Justices Anderson, Gildea, and McKeig were in the minority. In our *Ballotpedia Courts: State Partisanship* study, Justices Anderson and Gildea recorded Mild Republican Confidence Scores and Justice McKeig recorded an Indeterminate Confidence Score. They were the only justices on the court who did not record Democratic Confidence Scores.

Determining majority

In the one case decided by split decision, Justices Chutich, Hudson, Lillehaug, and Thissen were in the majority. In our *Ballotpedia Courts: State Partisanship* study, Justices Chutich and Hudson recorded Mild Democratic Confidence Scores and Justices Lillehaug and Thissen recorded Strong Democratic Confidence Scores.

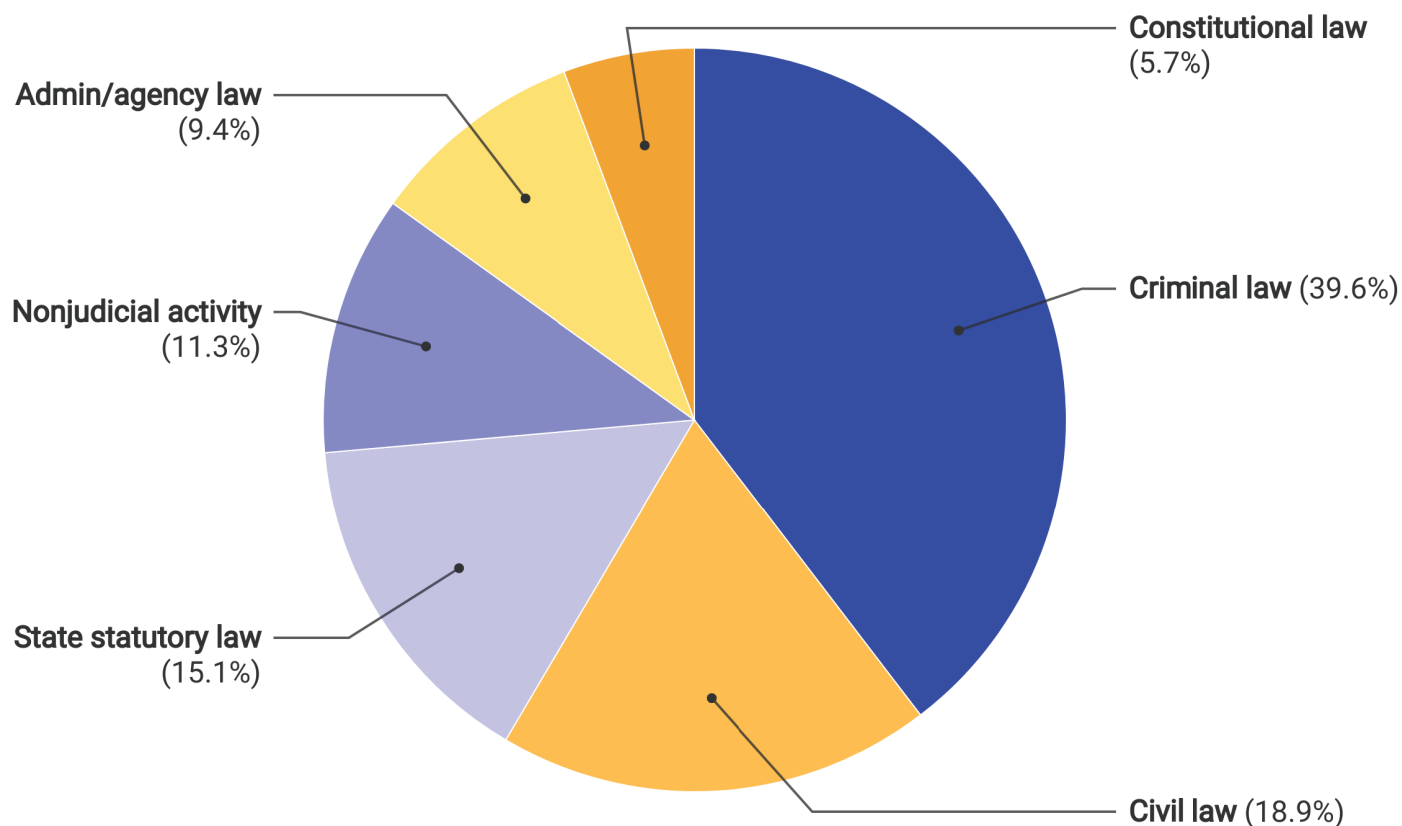
Lone dissenter

In 2020, there was a lone dissenter in four cases before the Minnesota Supreme Court. Justice Thissen dissented alone twice, which was more than any other justice on the court.

COURT JURISDICTION

The state supreme court hears appeals from the Minnesota Court of Appeals, Minnesota Workers' Compensation Court of Appeals, Minnesota Tax Court, Lawyers Professional Responsibility Board, and Board of Judicial Standards. The court also takes direct appeals for first degree murder and election contest appeals. Additionally, the supreme court has jurisdiction over the administration of the state's judicial system.

Case types decided by Minnesota Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Minnesota Supreme Court in 2020 were criminal cases. Of the 106 cases it heard, 42, or 39.6 percent, were criminal cases. A criminal case is any case involving a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is a case that involves a dispute between two parties, one of whom seeks reparations or damages. The Minnesota Supreme Court heard 20 civil cases in 2020, which was 18.9 percent of its total caseload for the year.

The third most common cases that reached the court were state statutory cases. A state statutory case is a case which involves the violation or enforcement of a state statute. The Minnesota Supreme Court heard 16 state statutory cases in 2020, which was 15.1 percent of its total caseload for the year.

MONTANA SUPREME COURT

Justice							
Confidence Score	Indeterminate	Indeterminate	Mild Democrat	Strong Republican	Mild Democrat	Mild Democrat	Indeterminate
Opinion Partners							
Dissenting Minority	✓	✓					✓
Determining Majority			✓	✓	✓	✓	
Lone Dissenter				✓			

- ▶ Number of justices: **7**
- ▶ Number of cases: **323**
- ▶ Percentage of cases with a unanimous ruling: **89.5 (289)**
- ▶ Justice most often writing the majority opinion: **Justice Ingrid Gustafson (61)**
- ▶ Per curiam decisions: **0**
- ▶ Concurring opinions: **19**
- ▶ Justice with most concurring opinions: **Justice James Rice (5) and Justice Ingrid Gustafson (5)**
- ▶ Dissenting opinions: **45**
- ▶ Justice with most dissenting opinions: **Justice Laurie McKinnon (13)**

COURT CONTENTION

Opinion partners

In 2020, the Montana Supreme Court decided ten cases 5-2. No justices frequently allied in dissent in those cases.

Dissenting minority

In 2020, the Montana Supreme Court decided ten cases by split decision. Justice McKinnon was in the minority in all ten of those cases. Justices Gustafson, McKinnon, and Sandefur were in the dissenting minority five times, which was more frequently than any other group of three justices. In our *Ballotpedia*

Courts: State Partisanship study, Gustafson, McKinnon, and Sandefur recorded Indeterminate Confidence Scores.

Determining majority

Of the ten cases decided by split decision in 2020, Justice Shea was in the majority nine times, which was more frequently than any other justice. The group of justices most frequently in the majority was Justices Shea, Rice, Baker, and McGrath, who allied in the majority five times. In our *Ballotpedia Courts: State Partisanship* study, Justices Baker and McGrath recorded Mild Democratic Confidence Scores, Justice Rice recorded a Strong Republican Confidence Score, and Justice Shea recorded a Mild Democratic Confidence Score.

Lone dissenter

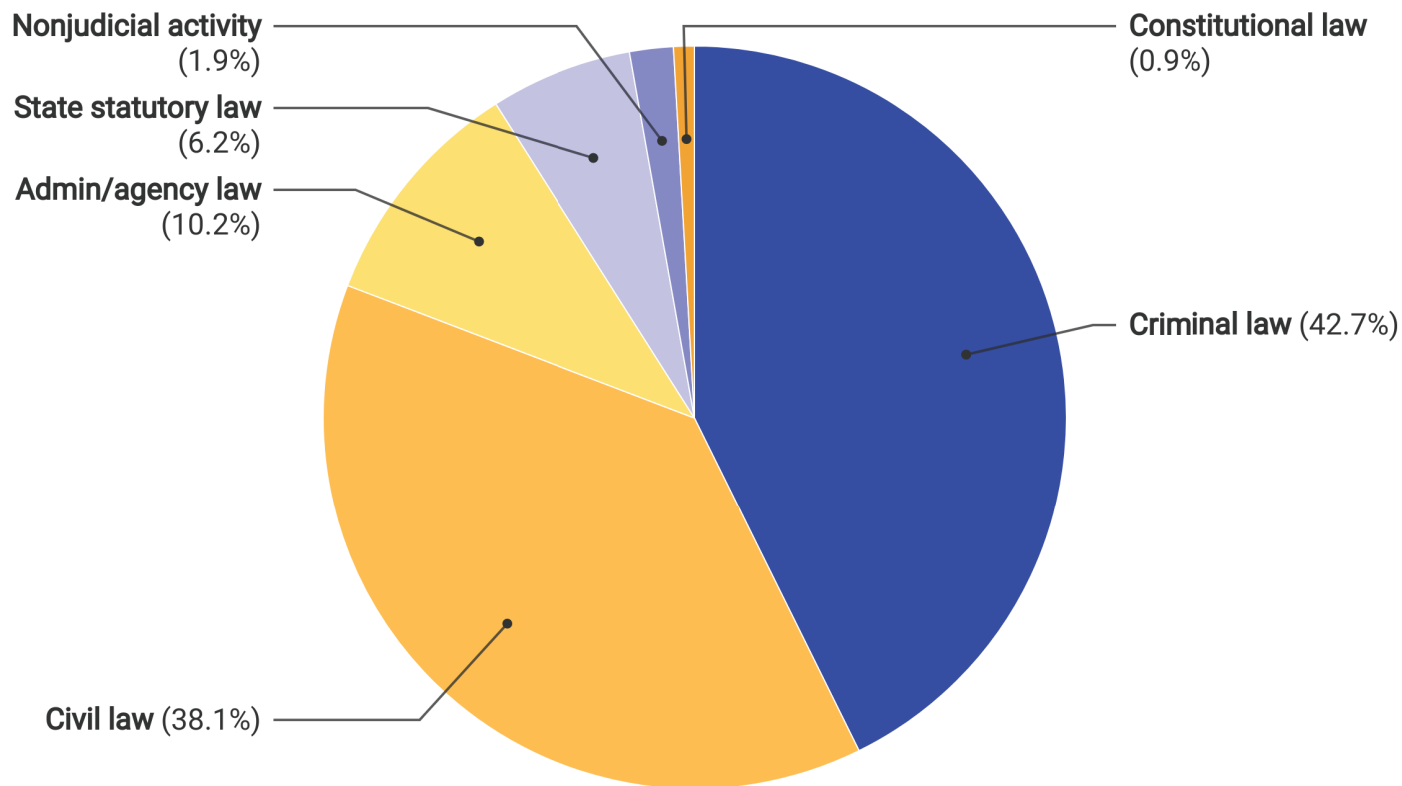
In 2020, there was a lone dissenter in five cases before the Montana Supreme Court. Justice Rice dissented alone in two of those cases, which was more than any other justice on the court. In our *Ballotpedia Courts: State Partisanship* study, Justice Rice recorded a Strong Republican Confidence Score.

COURT JURISDICTION

Since Montana does not have an intermediate appellate court, the state supreme court hears appeals from all of the district courts across the state, as well as from the workers' compensation and water courts. Because of the right of all people to appeal, the Montana Supreme Court has no discretion to turn down appeals of lower court decisions.

The supreme court also has original jurisdiction, meaning it may hear and decide original cases, as opposed to appellate cases. It may exercise original jurisdiction over writs of habeas corpus and has supervisory control over lower courts, according to the Montana Constitution. It may also exercise original jurisdiction in cases that have not gone to the district courts, as long as there are no facts in dispute and the case presents only legal or constitutional questions.

Case types decided by Montana Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the Montana Supreme Court in 2020 was criminal law. Of the 323 cases it heard, 138 were criminal cases, or 42.7 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Montana Supreme Court heard 123 civil cases in 2020, or 38.1 percent of its total caseload for the year.

The third most common cases that reached the court were administrative law cases. An administrative law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. The Montana Supreme Court heard 33 admin/agency cases in 2020, or 10.2 percent of its total caseload for the year.

NEBRASKA SUPREME COURT

Justices	 Lindsey Miller-Lerman	 John Freudenberg	 Jeffrey Funke	 William Cassel	 Stephanie Stacy	 Michael Heavican	 Jonathan Papik
Confidence Score	Mild Democrat	Strong Republican	Mild Republican	Mild Republican	Mild Republican	Strong Republican	Mild Republican
Opinion Partners							
Dissenting Minority							
Determining Majority							
Lone Dissenter							

- ▶ Number of justices: **7**
- ▶ Number of cases: **198**
- ▶ Percentage of cases with a unanimous ruling: **98.5% (195)**
- ▶ Justice most often writing the majority opinion: **Justice Jeffrey Funke (29)**
- ▶ Per curiam decisions: **22**
- ▶ Concurring opinions: **10**
- ▶ Justice with most concurring opinions: **Justice Lindsey Miller-Lerman (4)**
- ▶ Dissenting opinions: **3**
- ▶ Justice with most dissenting opinions: **Justice Jonathan Papik (2)**

COURT CONTENTION

Opinion partners

In 2020, one case before the Nebraska Supreme Court was decided 5-2. In that case, Justices Papik and Miller-Lehrman allied in dissent. In our *Ballotpedia Courts: State Partisanship* study, Justice Miller recorded a Mild Democratic Confidence Score, and Justice Papik recorded a Mild Republican Confidence Score.

Dissenting minority

In 2020, zero cases before the Nebraska Supreme Court were decided by split decision, so it is not possible to discern a dissenting minority with the existing data.

Determining majority

In 2020, zero cases before the Nebraska Supreme Court were decided by split decision, so it is not possible to discern a determining majority with the existing data.

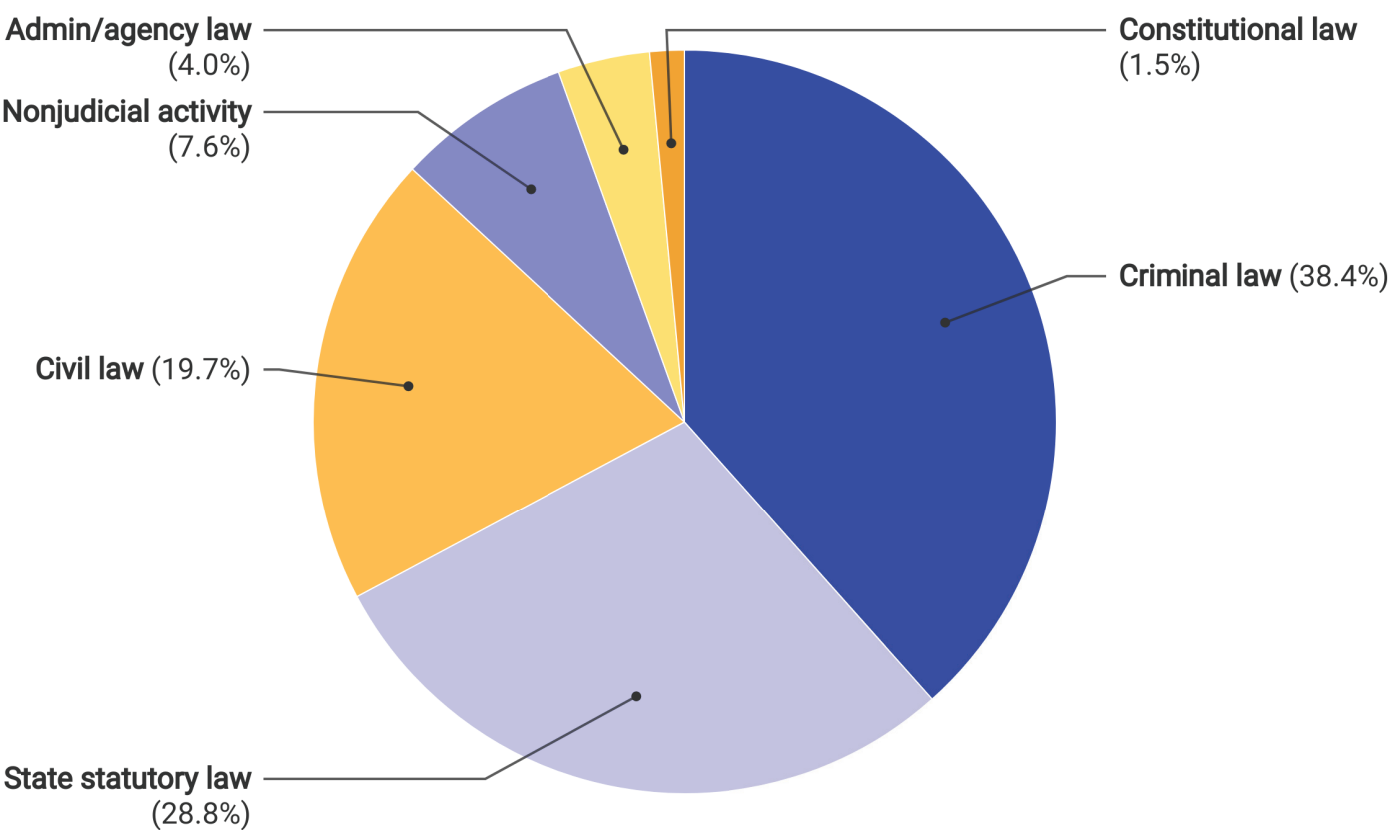
Lone dissenter

In 2020, there was a lone dissenter in two cases before the Nebraska Supreme Court. Justice Cassel was a lone dissenter in one of those cases and Justice Papik was a lone dissenter in another one of those cases. In our *Ballotpedia Courts: State Partisanship* study, Justices Cassel and Papik recorded Mild Republican Confidence Scores.

COURT JURISDICTION

The supreme court has discretionary jurisdiction over cases appealed from the Nebraska Court of Appeals. It has mandatory jurisdiction over cases involving sentences of death or life imprisonment and cases questioning the constitutionality of state statutes. The court also has a supervisory role over attorney admission and discipline. The supreme court has general administrative authority over all lower courts.

Case types decided by Nebraska Supreme Court, 2020






The most common case category heard by the Nebraska Supreme Court in 2020 was criminal law. Of the 198 cases it heard, 76 were criminal cases, or 38.4 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Nebraska Supreme Court heard 57 state statutory cases in 2020, or 28.8 percent of its total caseload for the year.

The third most common cases that reached the court were civil law cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Nebraska Supreme Court heard 39 civil cases in 2020, or 19.7 percent of its total caseload for the year.

NEVADA SUPREME COURT

Justices							
	Abbi Silver	James Hardesty	Kris Pickering	Mark W. Gibbons	Ron Parraguirre	Elissa Cadish	Lidia Stiglich
Confidence Score	Indeterminate	Mild Democrat	Mild Republican	Mild Republican	Mild Republican	Strong Democrat	Indeterminate
Opinion Partners	✓		✓				
Dissenting Minority							
Determining Majority							
Lone Dissenter							

- ▶ Number of justices: **7**
- ▶ Number of cases: **91**
- ▶ Percentage of cases with a unanimous ruling: **87.9% (80)**
- ▶ Justice most often writing the majority opinion: **Justice Lidia Stiglich (23)**
- ▶ Per curiam decisions: **2**
- ▶ Concurring opinions: **0**
- ▶ Dissenting opinions: **11**
- ▶ Justice with most dissenting opinions: **Justice Elissa Cadish (3) and Justice Lidia Stiglich (3)**

COURT CONTENTION

Opinion partners

In 2020 three cases before the Nevada Supreme Court were decided 5-2. In both of those cases, Justice Pickering was in the dissent. Justices Silver and Pickering allied in dissent in one of those cases, and they also concurred in part and dissented in part together in two other cases. In our *Ballotpedia Courts: State Partisanship* study Justice Pickering recorded a Mild Republican Confidence Score and Justice Silver recorded an Indeterminate Confidence Score.

Dissenting minority

In 2020 the Nevada Supreme Court decided zero cases by split decision. Therefore, it is not possible to discern a dissenting minority.

Determining majority Because there were zero cases decided by split decision, it is not possible to discern a determining majority.

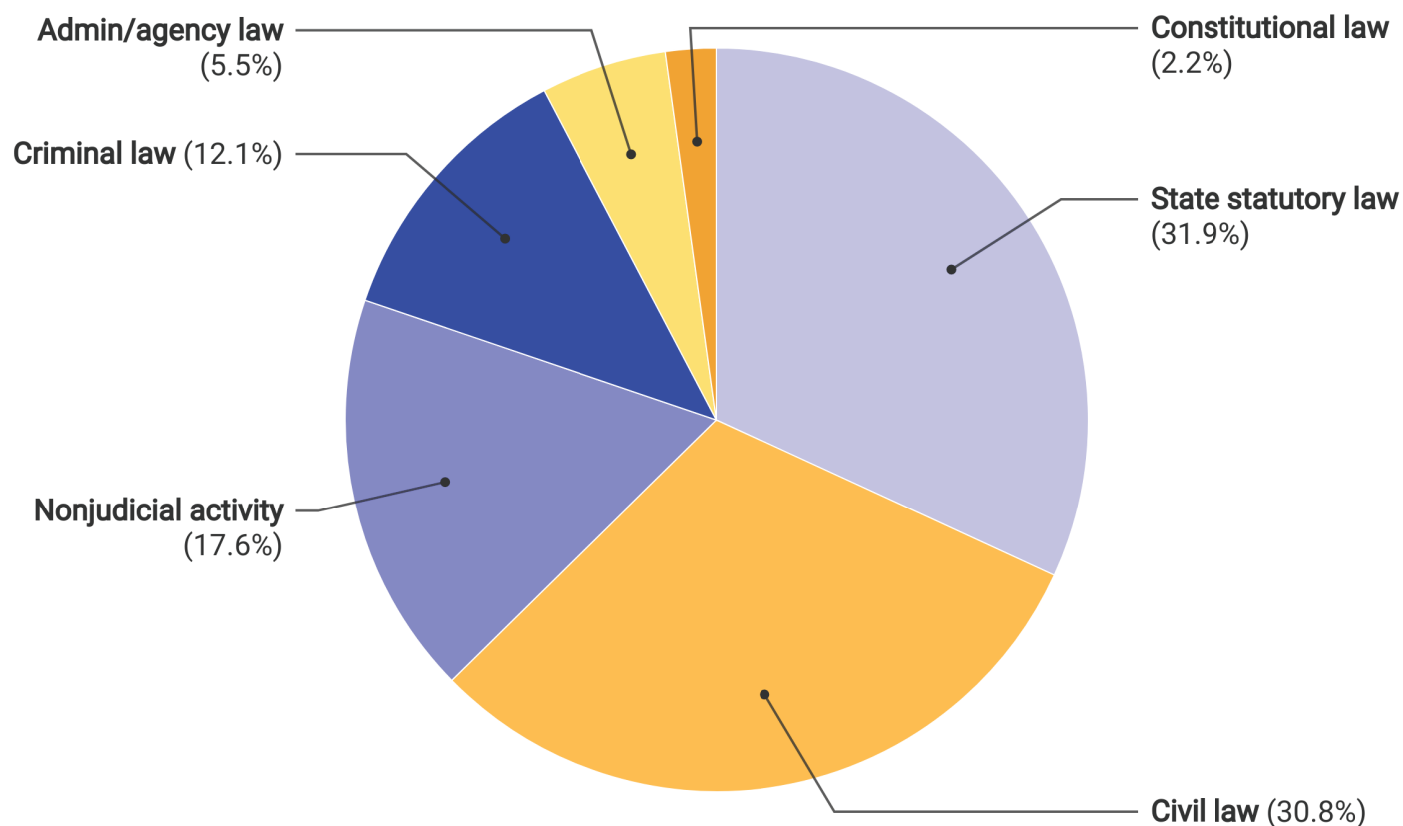
Lone dissenter

There was a lone dissenter in two cases in 2020. Justice Stiglich was a lone dissenter in one of those cases and Abbi Silver was a lone dissenter in one of those cases. In our *Ballotpedia Courts: State Partisanship* study, Justices Silver and Stiglich recorded Indeterminate Confidence Scores.

COURT JURISDICTION

All appeals from district courts are filed with the state supreme court. In 2014, the Nevada Court of Appeals was created by a legislatively referred constitutional amendment that was approved by voters. The Nevada Court of Appeals began hearing cases in January 2015. The supreme court decides which cases should be assigned to the court of appeals for review and which cases should be retained for supreme court review.

Case types decided by Nevada Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the Nevada Supreme Court in 2020 was state statutory cases. Of the 91 cases it heard, 29 were state statutory cases, or 31.9 percent of its total caseload for the year. A state statutory case involves the violation or enforcement of a state statute.

The second most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Nevada Supreme Court heard 28 civil cases in 2020, or 30.8 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Nevada Supreme Court heard 16 nonjudicial activity cases in 2020, or 17.6 percent of its total caseload for the year.

NEW HAMPSHIRE SUPREME COURT

Justice				
	Patrick Donovan	Anna Marconi	James Bassett	Gary Hicks
Confidence Score	Strong Republican	Mild Republican	Indeterminate	Mild Democrat
Opinion Partners				
Dissenting Minority				
Determining Majority				
Lone Dissenter		✓		

- ▶ Number of justices: **5 (1 vacant through 2020)**
- ▶ Number of cases: **73**
- ▶ Percentage of cases with a unanimous ruling: **93.2% (68)**
- ▶ Justice most often writing the majority opinion: **Justice Hicks (22)**
- ▶ Per curiam decisions: **1**
- ▶ Concurring opinions: **1**
- ▶ Justice with most concurring opinions: **Justice Anna Marconi (1)**
- ▶ Dissenting opinions: **5**
- ▶ Justice with most dissenting opinions: **Justice Anna Marconi (1)**

COURT CONTENTION

Opinion partners/dissenting minority

There were zero cases in which two justices joined in dissent. In one case, Justices Donovan and Marconi dissented in part and concurred in part together.

Determining majority

There were zero cases decided by split decision in 2020; therefore, it is not possible to discern a determining minority with the existing data.

Lone dissenter

In 2020, Justice Marconi wrote a lone dissenting opinion in two cases and in two

other cases wrote an opinion concurring in part and dissenting in part. In our *Ballotpedia Courts: State Partisanship* study, Justice Marconi recorded a Mild Republican Confidence Score.

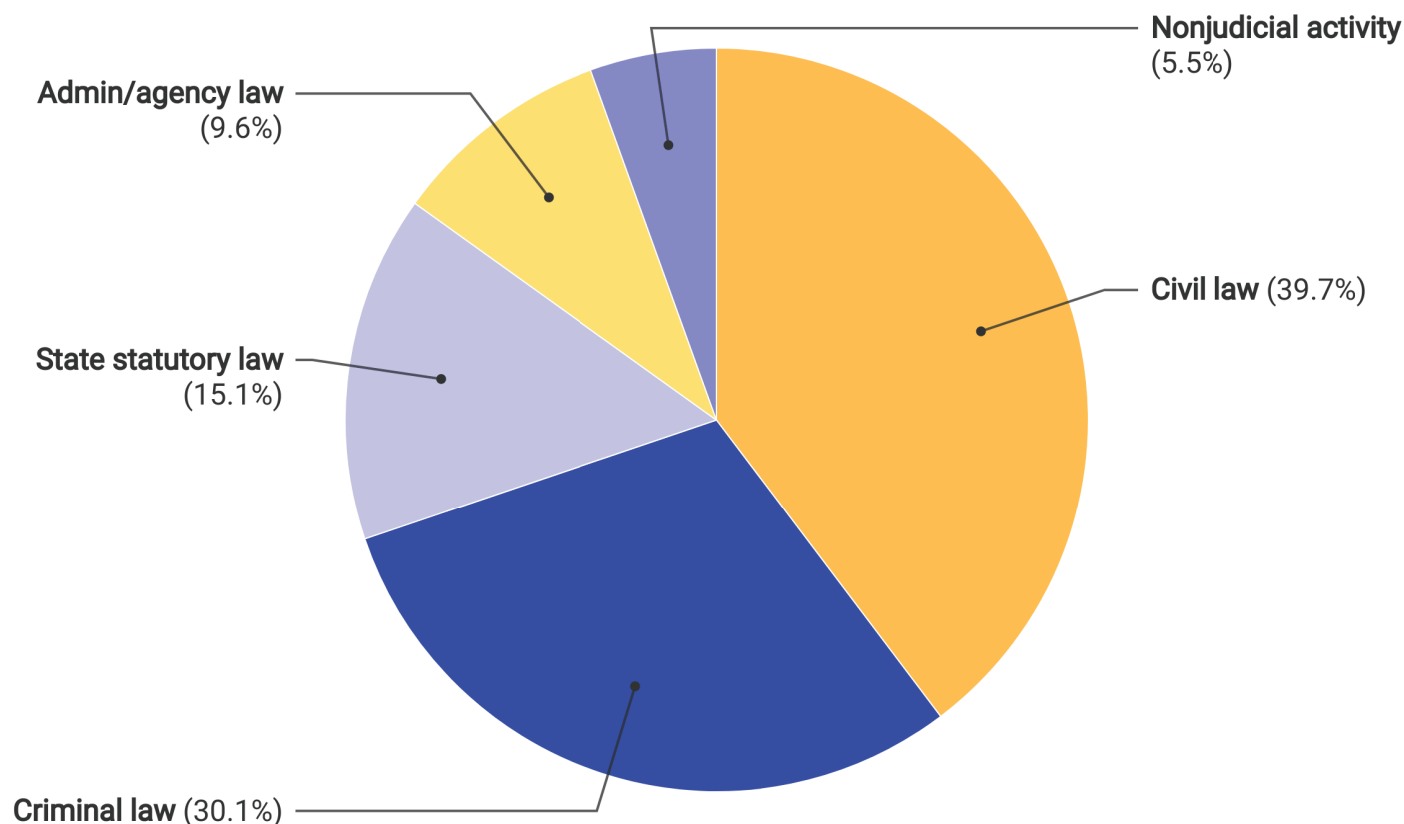
COURT JURISDICTION

The supreme court has jurisdiction to hear appeals from lower trial courts, as well as many administrative agencies. The court may also issue writs of certiorari, prohibition, habeas corpus, and other writs.

The court implemented a rule, Supreme Court Rule 7, instituting mandatory appeals in January 2004. Since that rule has been in place, the supreme court has accepted most appeals from the circuit and superior courts. Most appeals made in a timely manner after the final decision of a trial court are mandatory. That means they will be automatically accepted by the supreme court. Generally, parties may submit a transcript of the lower court proceedings and file written briefs. The high court chooses whether to hear oral arguments or decide the case solely on the briefs.

The types of appeals that fall under the category of “discretionary” include administrative appeals, interlocutory appeals and interlocutory transfers, petitions for original jurisdiction (e.g., writs of habeas corpus) and some trial court appeals. The supreme court has the discretion not to accept such cases for appellate review. If a case is accepted, the court usually follows the same procedure that it would for a mandatory appeal.

Case types decided by New Hampshire Supreme Court, 2020









BALLOTPEDIA

The most common case category heard by the New Hampshire Supreme Court in 2020 were civil cases. Of the 73 cases it heard, 29 were civil cases, or 39.7 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The New Hampshire Supreme Court heard 22 criminal cases in 2020, or 30.1 percent of its total caseload for the year.

The third most common cases that reached the court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The New Hampshire Supreme Court heard 11 state statutory cases in 2020, or 15.1 percent of its total caseload for the year.

NEW JERSEY SUPREME COURT

Justices							
Confidence Score	Mild Republican	Mild Democrat	Mild Republican	Mild Republican	Mild Democrat	Indeterminate	Mild Republican
Opinion Partners				✓	✓		
Dissenting Minority				✓	✓	✓	
Determining Majority	✓	✓	✓				✓
Lone Dissenter		✓			✓		

- ▶ Number of justices: **7**
- ▶ Number of cases: **43**
- ▶ Percentage of cases with a unanimous ruling: **74.4% (32)**
- ▶ Justice most often writing the majority opinion: **Justice Jaynee LaVecchia (8)**
- ▶ Per curiam decisions: **8**
- ▶ Concurring opinions: **2**
- ▶ Justice with most concurring opinions: **Justice Anne Patterson (1) and Justice Barry Albin (1)**
- ▶ Dissenting opinions: **12**
- ▶ Justice with most dissenting opinions: **Justice Barry Albin (6)**

COURT CONTENTION

Opinion partners

In 2020, the New Jersey Supreme Court decided three cases 5-2. Justices Albin and LaVecchia dissented together more frequently than any justices on the court: twice in split decisions and once in a case decided 5-2. In our Ballotpedia Court: State Partisanship study, Justice LaVecchia recorded a Mild Republican Confidence Score and Justice Albin recorded a Mild Democratic Confidence Score.

Dissenting minority

In 2020, the New Jersey Supreme Court decided two cases by split decision. In

both of those cases, Justices Albin and LaVecchia were in the dissent. They were joined once by Justice Timpone and once by Justice Solomon. In our *Ballotpedia Courts: State Partisanship* study, Justice LaVecchia recorded a Mild Republican Confidence Score, Justice Albin recorded a Mild Democratic Confidence Score, Justice Solomon recorded a Mild Republican Confidence Score, and Justice Timpone recorded an Indeterminate Confidence Score.

Determining majority

In the two cases decided by split decision, Justices Rabner, Paterson, and Fernandez-Vina were in the majority. They were joined by Justice Solomon in one case. Another case was decided as a true split decision (3-3) because Justice Timpone did not participate; this resulted in the holding of the appellate court being affirmed. In our *Ballotpedia Courts: State Partisanship* study, Justice Rabner recorded a Mild Democratic Confidence Score, Justice Patterson recorded a Mild Republican Confidence Score, Justice Fernandez-Vina recorded a Mild Republican Confidence Score, and Justice Solomon recorded a Mild Republican Confidence Score.

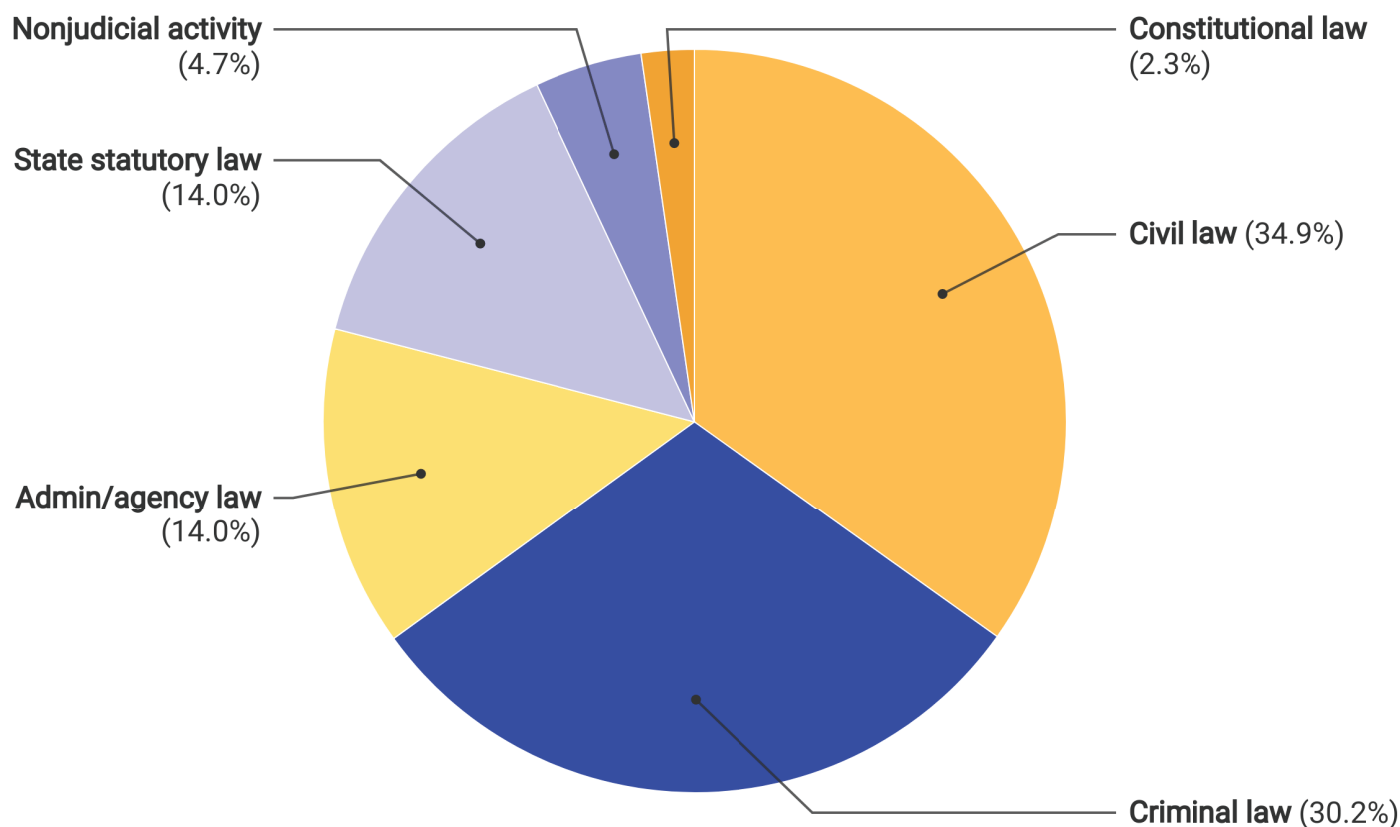
Lone dissenter

In 2020, there was a lone dissenter in four cases before the New Jersey Supreme Court. Justices Albin and Rabner were each lone dissenters twice. In our *Ballotpedia Courts: State Partisanship* study, Justices Albin and Rabner both recorded a Mild Democratic Confidence Score.

COURT JURISDICTION

The New Jersey Supreme Court is an appellate court with no original jurisdiction. The court may hear appeals if the case involves a constitutional question, if a judge in the appellate division dissented, if capital punishment is used, if the court granted certification, or if the case involves redistricting. The court also has administrative power over the state's courts and attorneys.

Case types decided by New Jersey Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the New Jersey Supreme Court in 2020 was civil cases. Of the 43 cases it heard, 15 were civil cases, or 34.9 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The New Jersey Supreme Court heard 13 criminal cases in 2020, or 30.2 percent of its total caseload for the year.

The third most common cases that reached the court were administrative law cases and state statutory law cases. An administrative law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. A state statutory case involves the violation or enforcement of a state statute. The New Jersey Supreme Court heard 6 cases, or 14.0 percent of its total caseload for the year, in each category in 2020.

NEW MEXICO SUPREME COURT



Michael Vigil



Barbara J. Vigil



Judith Nakamura



Shannon Bacon



David K. Thomson

Justices	Michael Vigil	Barbara J. Vigil	Judith Nakamura	Shannon Bacon	David K. Thomson
Confidence Score	Strong Democrat	Mild Democrat	Mild Republican	Mild Democrat	Strong Democrat
Opinion Partners					
Dissenting Minority					
Determining Majority					
Lone Dissenter			✓		

- ▶ Number of justices: **5**
- ▶ Number of cases: **23**
- ▶ Percentage of cases with a unanimous ruling: **87.0% (20)**
- ▶ Justice most often writing the majority opinion: **Justice Barbara Vigil (9)**
- ▶ Per curiam decisions: **0**
- ▶ Concurring opinions: **0**
- ▶ Dissenting opinions: **3**
- ▶ Justice with most dissenting opinions: **Justice Judith Nakamura (3)**

COURT CONTENTION

Opinion partners/dissenting minority

In 2020, no cases before the New Mexico Supreme Court were decided by split decision.

Determining majority

In 2020, no cases before the New Mexico Supreme Court were decided by split decision.

Lone dissenter

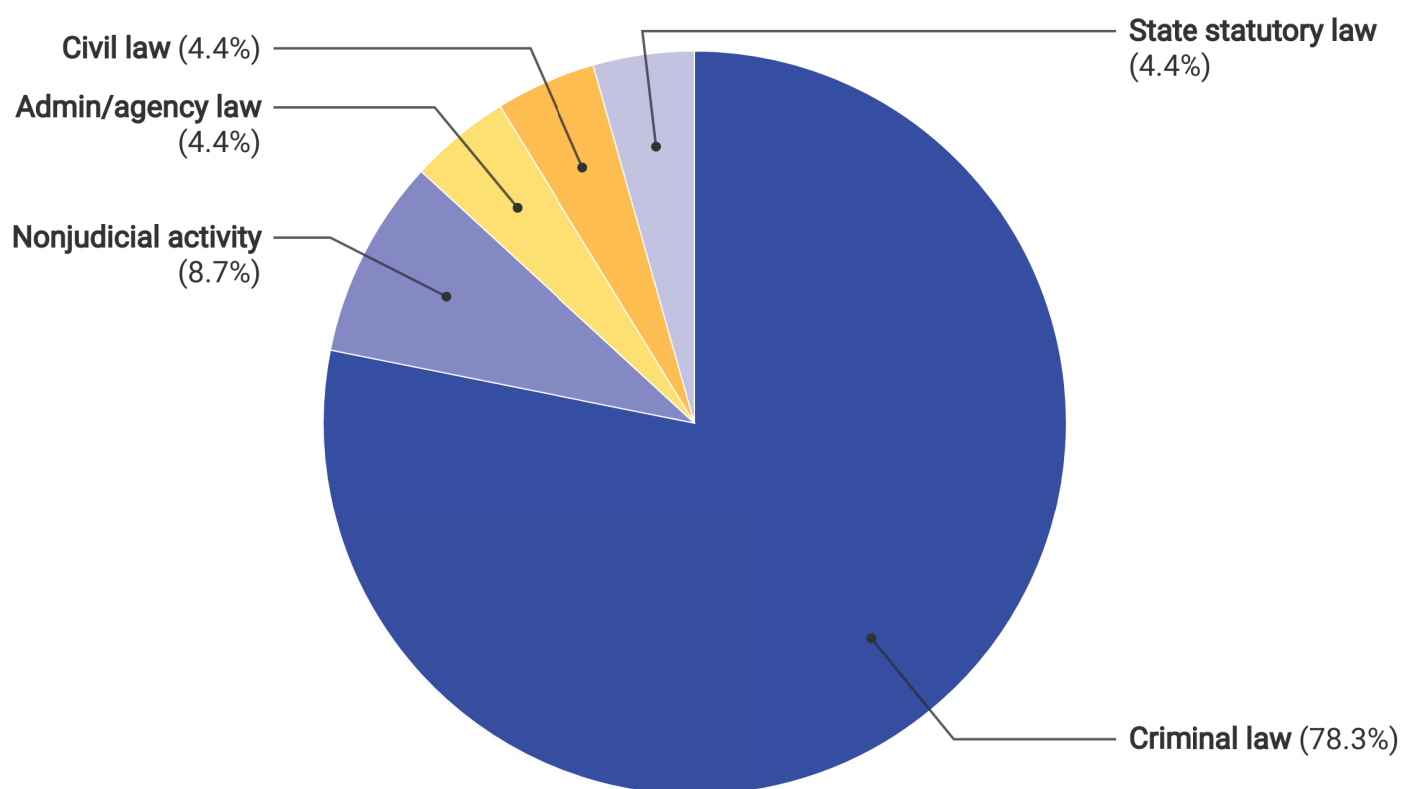
In 2020, there was a lone dissenter in three cases before the New Mexico Supreme

Court. Justice Nakamura was the lone dissenter in all three of those cases.

COURT JURISDICTION

The New Mexico Supreme Court has mandatory appellate jurisdiction over cases including life sentence and death penalty appeals, Public Regulation Commission appeals, and appeals regarding election challenges. The court has discretionary appellate jurisdiction to grant writs of certiorari to review judgments of the New Mexico Court of Appeals, and it has superintending control over lower courts.

Case types decided by New Mexico Supreme Court, 2020







BALLOTPEDIA

The most common case category heard by the New Mexico Supreme Court in 2020 was criminal law. Of the 23 cases it heard, 18 were criminal cases, or 78.3 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The New Mexico Supreme Court heard two nonjudicial activity cases in 2020, or 8.7 percent of its total caseload for the year.

The third most common cases that reached the court were administrative law cases, civil law cases, and state statutory cases. An administrative law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. A state statutory case involves the violation or enforcement of a state statute. The New Mexico Supreme Court heard 1 case, or 4.3 percent of its total caseload for the year, in each category in 2020.

NORTH DAKOTA SUPREME COURT

Justices					
	Lisa Fair McEvers	Jerod Tufte	Jon Jay Jensen	Daniel Crothers	Gerald VandeWalle
Confidence Score	Mild Republican	Strong Republican	Mild Republican	Mild Republican	Indeterminate
Opinion Partners		✓	✓		
Dissenting Minority		✓	✓		
Determining Majority	✓			✓	✓
Lone Dissenter	✓				✓

- ▶ Number of justices: **5**
- ▶ Number of cases: **269**
- ▶ Percentage of cases with a unanimous ruling: **94.4% (254)**
- ▶ Justice most often writing the majority opinion: **Justice Crothers (47)**
- ▶ Per curiam decisions: **67**
- ▶ Concurring opinions: **16**
- ▶ Justice with most concurring opinions: **Justice McEvers (8)**
- ▶ Dissenting opinions: **16**
- ▶ Justice with most dissenting opinions: **Justice McEvers (8)**

COURT CONTENTION

Opinion partners/dissenting minority

In 2020, four cases before the North Dakota Supreme Court were decided 3-2.

In two of those cases Justice Tufte and Jensen were in the minority. In our *Ballotpedia Courts: State Partisanship* study, Justice Jensen recorded a Mild Republican Confidence Score and Justice Tufte recorded a Strong Republican Confidence Score.

Determining majority

In two of the four cases decided by split decision in 2020, Justices Crothers, McEvers, and VandeWalle were in the majority. In our *Ballotpedia Courts: State Partisanship* study, Crothers recorded a Mild Republican Confidence Score, McEvers recorded a Mild Republican Confidence Score, and VandeWalle recorded an Indeterminate Confidence Score.

Lone dissenter

In 2020, there was a lone dissenter in eight cases. Justices McEvers and VandeWalle each dissented alone three times in 2020.

COURT JURISDICTION

The North Dakota Supreme Court has appellate jurisdiction and administrative authority over the state's lower courts. The following text from Article VI, Sections 2 and 3 of the North Dakota Constitution covers the organization and jurisdiction of the court:

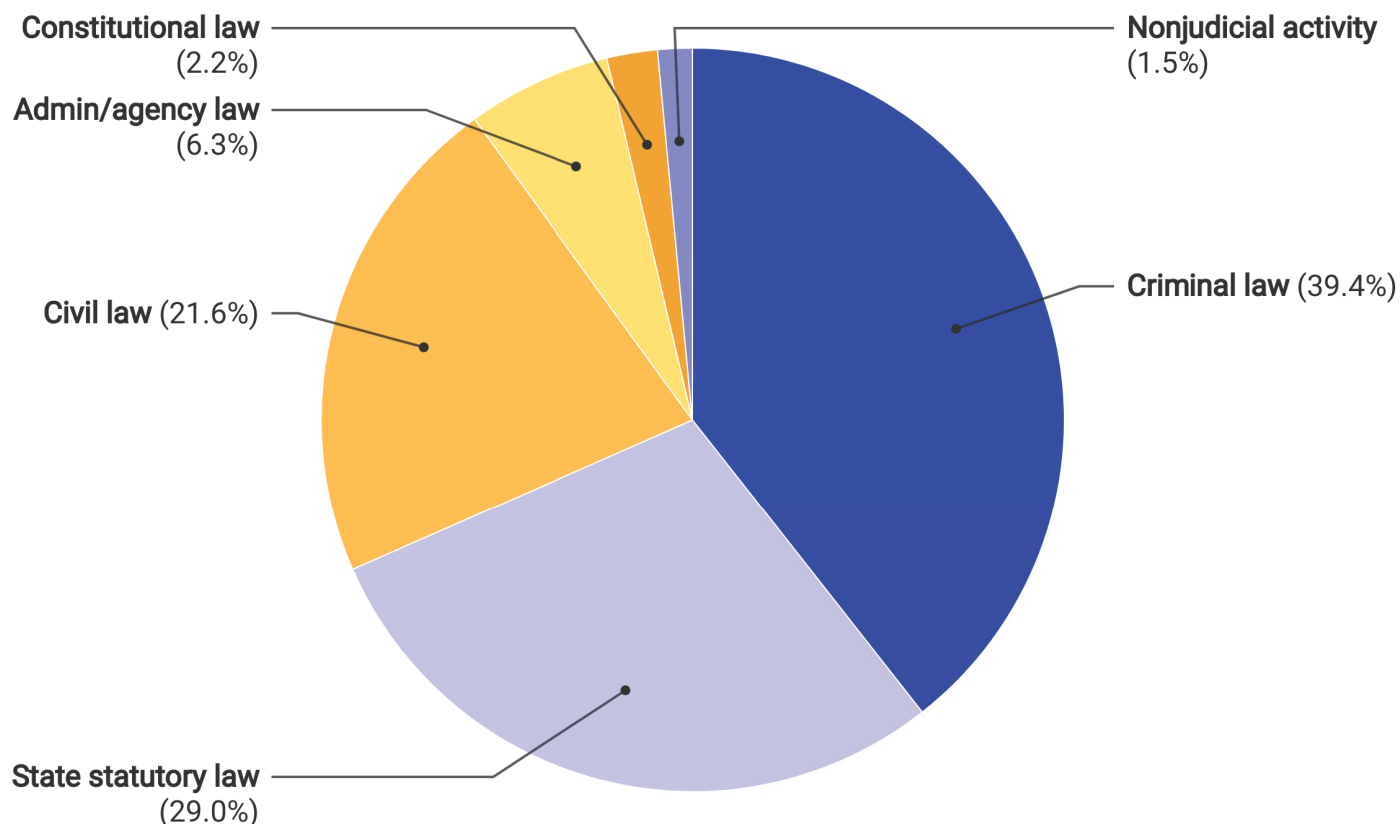
“Section 2

The supreme court shall be the highest court of the state. It shall have appellate jurisdiction, and shall also have original jurisdiction with authority to issue, hear, and determine such original and remedial writs as may be necessary to properly exercise its jurisdiction. The supreme court shall consist of five justices, one of whom shall be designated chief justice in the manner provided by law.

Section 3

The supreme court shall have authority to promulgate rules of procedure, including appellate procedure, to be followed by all the courts of this state; and, unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarment of attorneys at law. The chief justice shall be the administrative head of the unified judicial system. He may assign judges, including retired judges, for temporary duty in any court or district under such rules and regulations as may be promulgated by the supreme court. The chief justice shall appoint a court administrator for the unified judicial system. Unless otherwise provided by law, the powers, duties, qualifications, and terms of office of the court administrator, and other court officials, shall be as provided by rules of the court.”

Case types decided by North Dakota Supreme Court, 2020











BALLOTPEDIA

The most common case category heard by the North Dakota Supreme Court in 2020 was criminal law. Of the 269 cases it heard, 106 were criminal cases, or 39.4 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The North Dakota Supreme Court heard 78 state statutory law cases in 2020, or 29.0 percent of its total caseload for the year.

The third most common cases that reached the supreme court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The North Dakota Supreme Court heard 58 civil law cases in 2020, or 21.6 percent of its total caseload for the year.

OKLAHOMA SUPREME COURT

									
	Tom Colbert	Yvonne Kauger	M. John Kane IV	James Edmondson	James R. Winchester	Noma D. Gurich	Douglas L. Combs	Richard Darby	Dustin P. Rowe
Confidence Score	Mild Democrat	Mild Democrat	Mild Republican	Mild Democrat	Mild Republican	Indeterminate	Strong Democrat	Mild Republican	Strong Republican
Opinion Partners			✓						✓
Dissenting Minority			✓		✓			✓	✓
Determining Majority	✓	✓		✓		✓	✓		
Lone Dissenter	✓								

- ▶ Number of justices: **9**
- ▶ Number of cases: **112**
- ▶ Percentage of cases with a unanimous ruling: **65.2% (73)**
- ▶ Justice most often writing the majority opinion: **Justice James Edmondson (11)**
- ▶ Per curiam decisions: **58**
- ▶ Concurring opinions: **8**
- ▶ Justice with most concurring opinions: **Justice Dustin Rowe (3)**
- ▶ Dissenting opinions: **33**
- ▶ Justice with most dissenting opinions: **Justice Dustin Rowe (11)**

COURT CONTENTION

Opinion partners

In 2020, ten cases before the Oklahoma Supreme Court were decided 7-2. Three other cases were decided unanimously, but two justices joined in opinions concurring in part and dissenting in part. Justices Kane and Rowe dissented together in two of those decisions, and concurred in part and dissented in part together in two decisions. In our *Ballotpedia Courts: State Partisanship* study, Justice Kane recorded a Mild Republican Confidence Score and Justice Rowe recorded a Strong Republican Confidence Score.

Dissenting minority

In 2020, five cases before the Oklahoma Supreme Court were decided by split decision. Justices Kane, Rowe, and Winchester dissented together in four of those cases. Justice Darby joined them three times, Justice Edmondson joined them once, and Justice Kauger joined them once. In our *Ballotpedia Courts: State Partisanship* study, Justices Darby, Kane, and Winchester recorded Mild Republican Confidence Scores, and Justice Rowe recorded a Strong Republican Confidence Score.

Determining majority

In the five cases decided by split decision in 2020, Justice Colbert and Combs were in the majority. Justices Edmondson, Gurich, and Kauger joined them in four of those cases, and Justice Darby joined them in two. In our *Ballotpedia Courts: State Partisanship* study, Justices Colbert, Edmondson, and Kauger recorded Mild Democratic Confidence Scores. Justice Combs recorded a Strong Democratic Confidence Score. Justice Gurich recorded an Indeterminate Confidence Score.

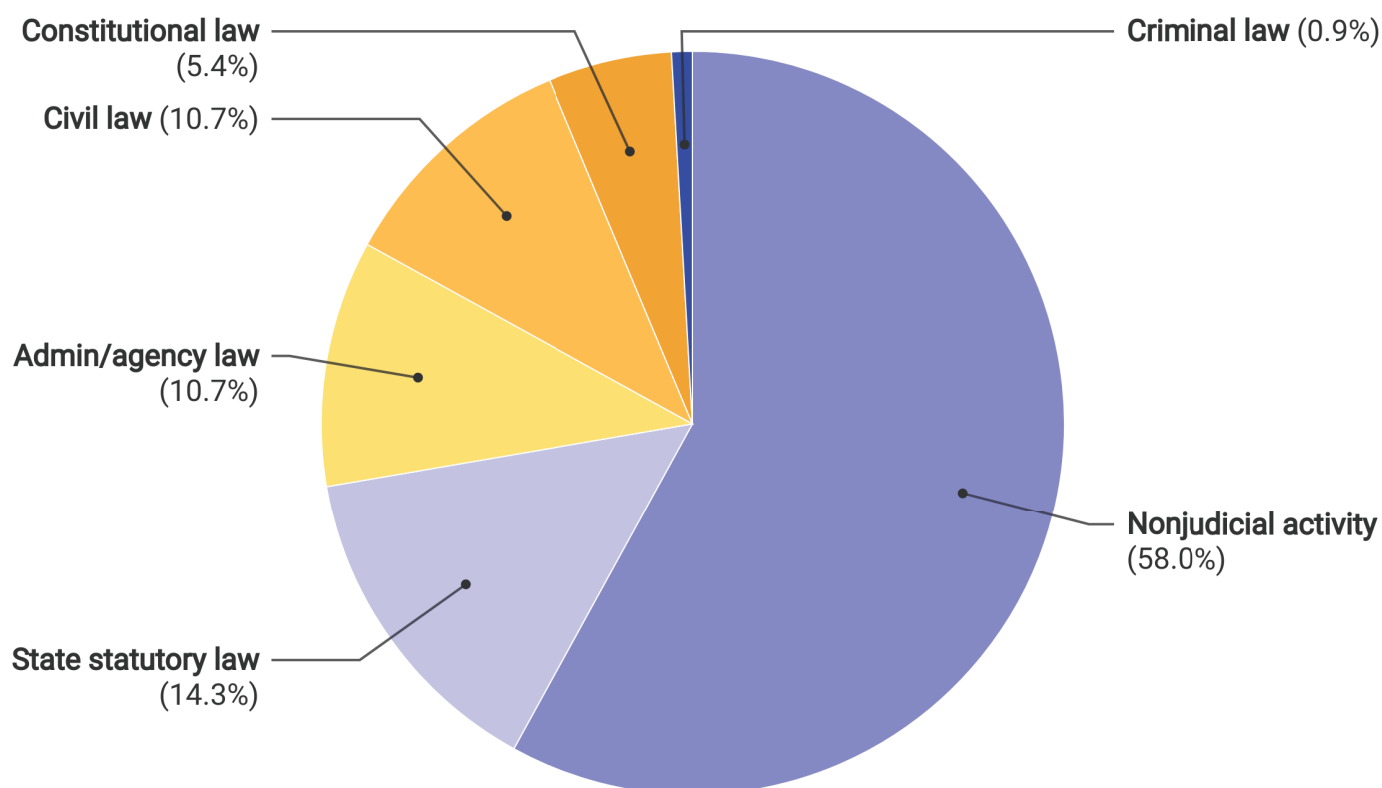
Lone dissenter

In 2020, there was a lone dissenter in seven cases decided by the Oklahoma Supreme Court. In three of those cases Justice Colbert was a lone dissenter, which was more frequent than any other justice on the court.

COURT JURISDICTION

In Oklahoma, there are two courts of last resort, the Oklahoma Court of Criminal Appeals and the Oklahoma Supreme Court. The Oklahoma Supreme Court has appellate jurisdiction over “cases at law and in equity,” while the Oklahoma Court of Criminal Appeals has appellate jurisdiction over criminal cases. The supreme court has superintendent control over lower courts in the state.

Case types decided by Oklahoma Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the Oklahoma Supreme Court in 2020 was nonjudicial activity. Of the 112 cases it heard, 65 were nonjudicial activity cases. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court.

The second most common cases that reached the supreme court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Oklahoma Supreme Court heard 16 state statutory cases in 2020, or 14.3 percent of its total caseload for the year.

The third most common cases that reached the court were administrative law cases and civil law cases. An admin/agency law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Oklahoma Supreme Court heard 12 cases, or 10.7 percent of its total caseload for the year, in each category in 2020.

OKLAHOMA COURT OF CRIMINAL APPEALS

Justices					
Confidence Score	Mild Republican	Mild Republican	Indeterminate	Mild Republican	Mild Republican
Opinion Partners			✓		✓
Dissenting Minority	✓	✓		✓	
Determining Majority					
Lone Dissenter					

- ▶ Number of justices: **5**
- ▶ Number of cases: **22**
- ▶ Percentage of cases with a unanimous ruling: **77.3% (17)**
- ▶ Justice most often writing the majority opinion: **Justice Lumpkin and Lewis (5)**
- ▶ Per curiam decisions: **0**
- ▶ Concurring opinions: **21**
- ▶ Justice with most concurring opinions: **Justice Lewis (10)**
- ▶ Dissenting opinions: **2**
- ▶ Justice with most dissenting opinions: **Justice Lewis (2)**

COURT CONTENTION

Opinion partners/dissenting minority

In 2020, one case before the Oklahoma Court of Criminal Appeals was decided by split decision. In two other cases two justices filed opinions concurring in part and dissenting in part. Justices Kuehn and Lewis were opinion partners in the one split decision and concurred in part and dissented in part together twice. They also concurred together twice. In our *Ballotpedia Courts: State Partisanship* study, Justice Lewis recorded an Indeterminate Confidence Score and Justice Kuehn recorded a Mild Republican Confidence Score.

Determining majority

In the one case decided by split decision, Justices Hudson, Lumpkin, and Rowland were in the majority. They also consistently ruled in the majority while Justices Kuehn and Lewis concurred in judgment. In our *Ballotpedia Courts: State Partisanship* study, Hudson, Lumpkin and Rowland recorded Mild Republican Confidence Scores.

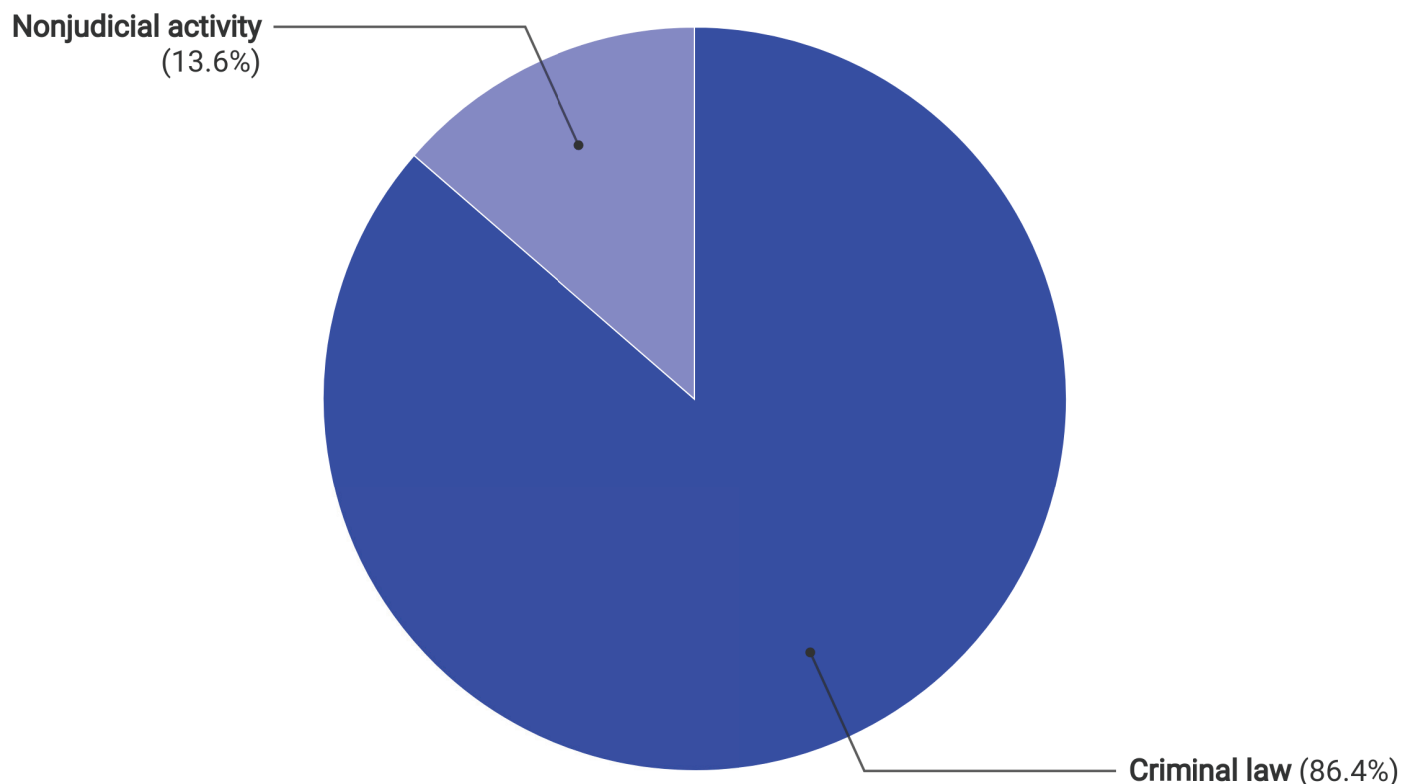
Lone dissenter

In 2020, only one case before the Oklahoma Court of Criminal Appeals was decided 4-1. Justice Lewis was the lone dissenter in that case.

COURT JURISDICTION

In Oklahoma, there are two courts of last resort, the Oklahoma Court of Criminal Appeals and the Oklahoma Supreme Court. The Oklahoma Court of Criminal Appeals hears cases involving the death penalty and all cases involving criminal matters coming from the district courts and the municipal courts of record. In the event of a dispute involving whether the Oklahoma Supreme Court or the court of criminal appeals has jurisdiction in a case, the supreme court makes the final determination.








Case types decided by Oklahoma Court of Criminal Appeals, 2020



The most common cases heard by the Oklahoma Court of Criminal Appeals in 2020 were criminal cases. Of the 22 cases it heard, 19 were criminal cases, or 86.4 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common decision made by the court of criminal appeals was nonjudicial. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Oklahoma Court of Criminal Appeals heard three cases considered nonjudicial activity in 2020, or 13.6 percent of its total caseload for the year.

OREGON SUPREME COURT

Justices	 Martha Walters	 Chris Garrett	 Lynn Nakamoto	 Thomas Balmer	 Meagan A. Flynn	 Adrienn Nelson	 Rebecca Duncan
Confidence Score	Mild Democrat	Strong Democrat	Strong Democrat	Strong Democrat	Mild Democrat	Mild Democrat	Mild Democrat
Opinion Partners							
Dissenting Minority							
Determining Majority							
Lone Dissenter							

- ▶ Number of justices: **7**
- ▶ Number of cases: **53**
- ▶ Percentage of cases with a unanimous ruling: **88.7% (47)**
- ▶ Justice most often writing the majority opinion: **Justice Balmer (10)**
- ▶ Per curiam decisions: **8**
- ▶ Concurring opinions: **2**
- ▶ Justice with most concurring opinions: **Justice Duncan (1)**
- ▶ Dissenting opinions: **6**
- ▶ Justice with most dissenting opinions: **Justice Balmer (2)**

COURT CONTENTION

Opinion partners

In 2020, three cases before the Oregon Supreme Court were decided 5-2. In two of those cases Justices Nakamoto and Nelson were **opinion partners**. In our *Ballotpedia Courts: State Partisanship* study, Justice Nakamoto recorded a Strong Democratic Confidence Score and Justice Nelson recorded a Mild Democratic Confidence Score.

Dissenting minority

In 2020, no cases before the Oregon Supreme Court were decided by split decision.

Determining majority

In 2020, no cases before the Oregon Supreme Court were decided by split decision.

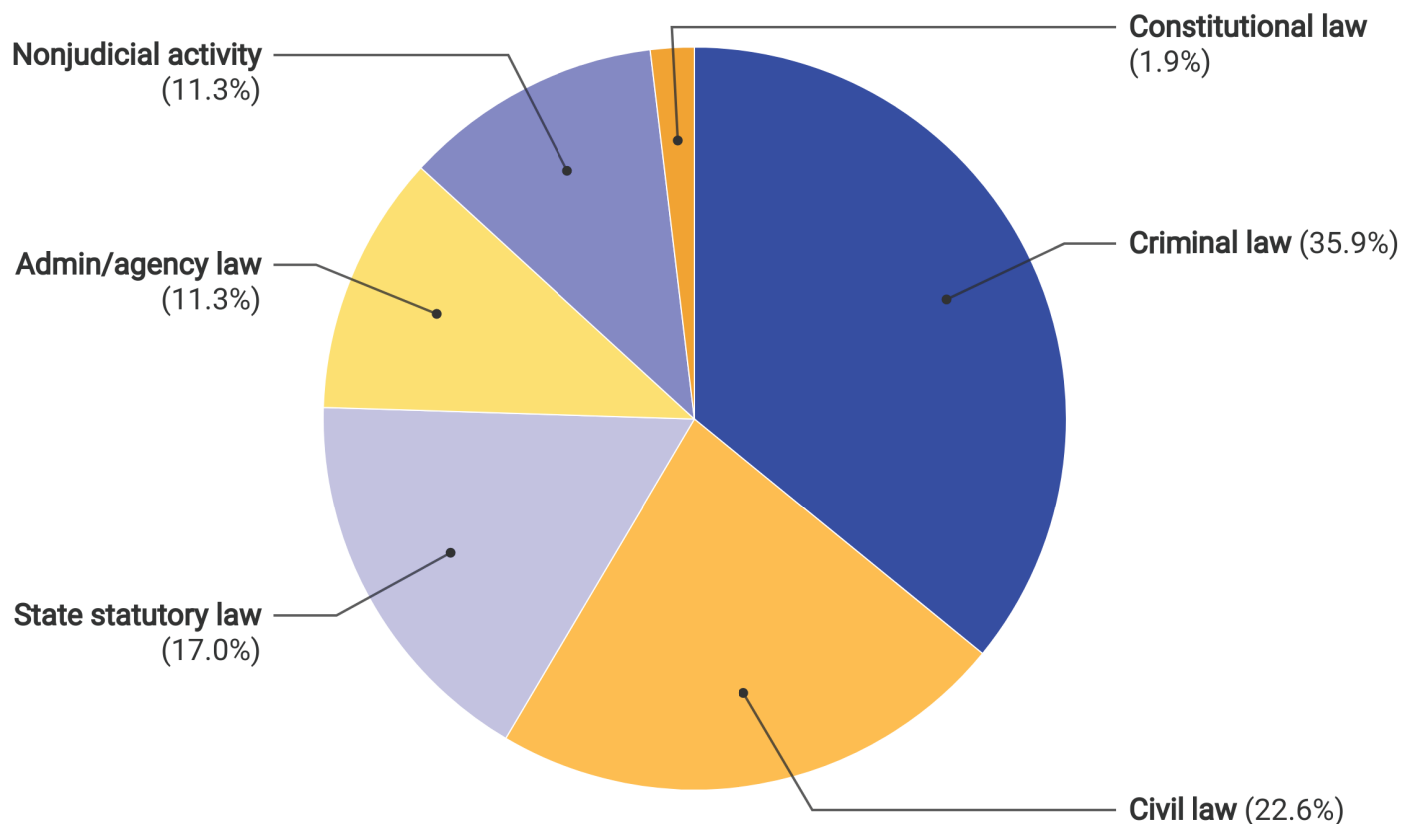
Lone dissenter

In 2020, three cases before the Oregon Supreme Court were decided 6-1. In two of those cases Justice Balmer was a lone dissenter. In our *Ballotpedia Courts: State Partisanship* study, Justice Balmer recorded a Strong Democratic Confidence Score.

COURT JURISDICTION

The Oregon Supreme Court has discretionary jurisdiction to review decisions from the Oregon Court of Appeals. The court also “hears direct appeals in death penalty, lawyer and judicial discipline, and Oregon Tax Court cases,” “may accept original jurisdiction in mandamus, quo warranto and habeas corpus proceedings,” and “reviews ballot measure titles, prison siting disputes, reapportionment of legislative districts and legal questions on Oregon law referred by federal courts.”

Case types decided by Oregon Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the Oregon Supreme Court in 2020 was criminal law. Of the 53 cases it heard, 19 were criminal cases, or 35.8 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Oregon Supreme Court heard 12 civil law cases in 2020, or 22.6 percent of its total caseload for the year.

The third most common cases that reached the supreme court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Oregon Supreme Court heard nine State Statutory Law cases in 2020, or 17.0 percent of its total caseload for the year.

RHODE ISLAND SUPREME COURT



Justices	Paul Suttell	William Robinson	Francis Flaherty	Gilbert V. Indeglia	Maureen McKenna Goldberg
Confidence Score	Mild Republican	Mild Republican	Mild Democrat	Mild Republican	Indeterminate
Opinion Partners					
Dissenting Minority					
Determining Majority					
Lone Dissenter					

- ▶ Number of justices: **5**
- ▶ Number of cases: **62**
- ▶ Percentage of cases with a unanimous ruling: **91.9% (57)**
- ▶ Justice most often writing the majority opinion: **Justice Flaherty (15)**
- ▶ Per curiam decisions: **1**
- ▶ Concurring opinions: **1**
- ▶ Justice with most concurring opinions: **Justice Robinson (1)**
- ▶ Dissenting opinions: **5**
- ▶ Justice with most dissenting opinions: **Justice Flaherty and Robinson (2)**

COURT CONTENTION

Opinion partners/lone dissenters

In 2020, no cases before the Rhode Island Supreme Court were decided by split decision.

Determining majority

In 2020, no cases before the Rhode Island Supreme Court were decided by split decision.

Lone dissenter

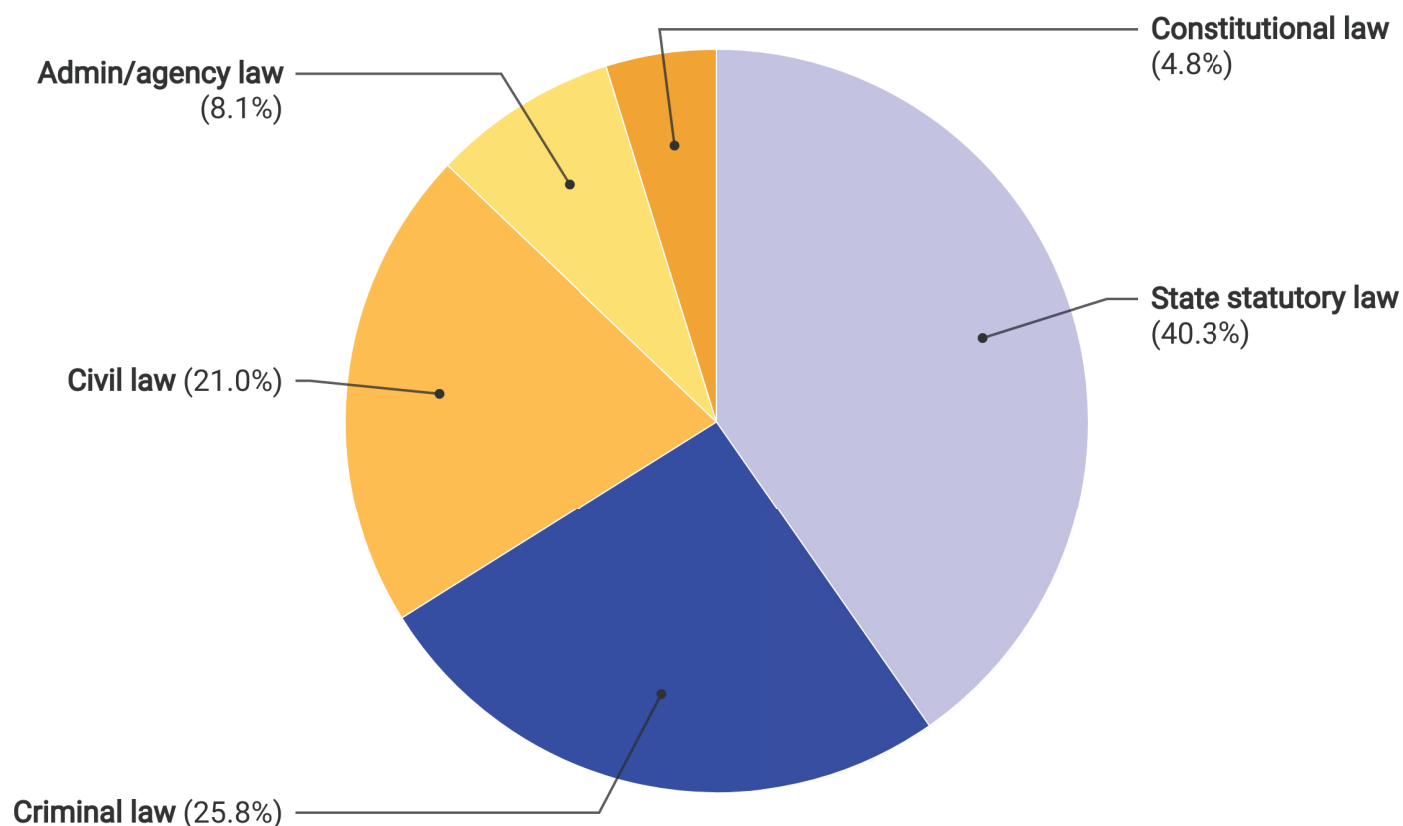
In 2020, three cases before the Rhode Island Supreme Court were decided 4-1. In two additional cases, a justice filed an opinion concurring in part and dissenting in part. Justice Flaherty dissented alone twice. In our *Ballotpedia Courts: State Partisanship* study, Justice Flaherty recorded a Mild Democratic Confidence Score.

COURT JURISDICTION

The Rhode Island Supreme Court has appellate jurisdiction over legal and constitutional questions. Additionally, the court must regulate admission to the state bar and determine disciplinary issues. The following text from Article X, Section 2 of the Rhode Island Constitution covers the organization and jurisdiction of the court:

“Jurisdiction of Supreme and Inferior Courts -- Quorum of Supreme Court
The supreme court shall have final revisory and appellate jurisdiction upon all questions of law and equity. It shall have power to issue prerogative writs, and shall also have such other jurisdiction as may, from time to time, as prescribed by law. A majority of its judges shall always be necessary to constitute a quorum. The inferior courts shall have such jurisdiction as may, from time to time, be prescribed by law.”

Case types decided by Rhode Island Supreme Court, 2020








The most common cases heard by the Rhode Island Supreme Court in 2020 were state statutory cases. Of the 62 cases it heard, 25 were state statutory law cases, or 40.3 percent of its total caseload for the year. A state statutory case involves the violation or enforcement of a state statute.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The Rhode Island Supreme Court heard 16 criminal law cases in 2020, or 25.8 percent of its total caseload for the year.

The third most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Rhode Island Supreme Court heard 13 civil law cases in 2020, or 21.0 percent of its total caseload for the year.

SOUTH CAROLINA SUPREME COURT

Justices					
	George C. James	John C. Few	John Kittredge	Kaye Hearn	Donald Beatty
Confidence Score	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Indeterminate
Opinion Partners					
Dissenting Minority					
Determining Majority					
Lone Dissenter		✓		✓	

- ▶ Number of justices: **5**
- ▶ Number of cases: **87**
- ▶ Percentage of cases with a unanimous ruling: **85.1% (74)**
- ▶ Justice most often writing the majority opinion: **Justice James (11)**
- ▶ Per curiam decisions: **44**
- ▶ Concurring opinions: **8**
- ▶ Justice with most concurring opinions: **Justice Few (4)**
- ▶ Dissenting opinions: **14**
- ▶ Justice with most dissenting opinions: **Justice Few (4) and Justice**

Hearn (4)

COURT CONTENTION

Opinion partners/dissenting minority

In 2020, four cases were decided by split decision. No two justices were opinion partners in more than one case. Each justice on the court was in the minority in at least one split case.

Determining majority

In the cases decided by split decision, there was no consistent determining majority. No justice was in the majority in every case decided by split decision.

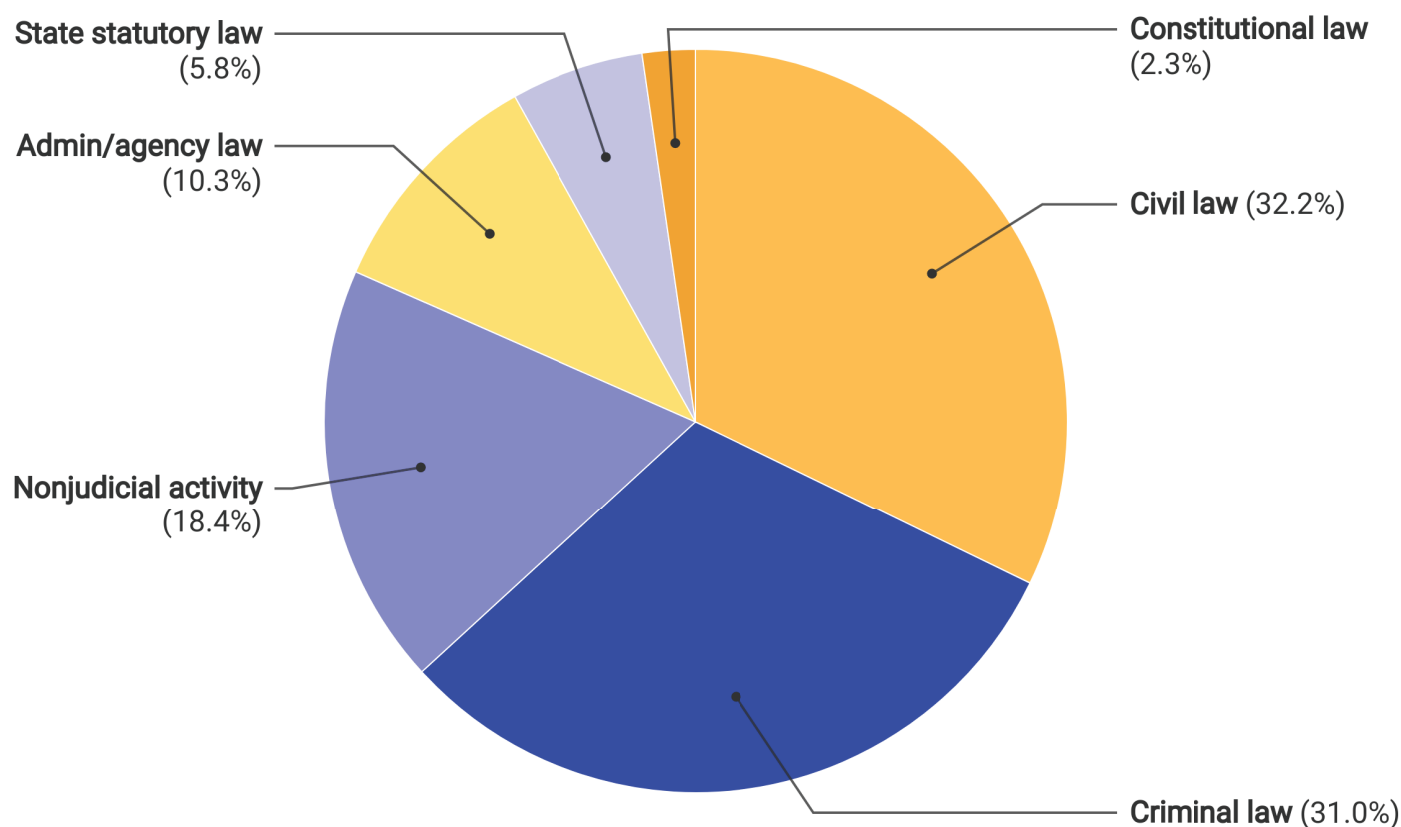
Lone dissenter

In 2020, eight cases before the South Carolina Supreme Court were decided 4-1. Justices Few and Hearn dissented alone three times each. In our *Ballotpedia Courts: State Partisanship* study, Justices Few and Hearn both recorded Mild Republican Confidence Scores.

COURT JURISDICTION

The court has original and appellate jurisdiction. It has exclusive appellate jurisdiction for all state cases regarding the death penalty, state utility rates, judgments involving public bonded indebtedness and elections, and orders limiting state grand juries and relating to abortions by minors. Original jurisdiction pertains to the issuance of writs including mandamus, certiorari, and extraordinary bills. Additionally, the court has the responsibility of overseeing the admission of individuals to practice law in the state. It also supervises the discipline of attorneys and suspension of those no longer able to practice due to mental or physical condition.

Case types decided by South Carolina Supreme Court, 2020



BALLOTPEDIA

The most common case category heard by the South Carolina Supreme Court in 2020 was civil cases. Of the 87 cases it heard, 28 were civil law cases, or 32.2 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The South Carolina Supreme Court heard 27 criminal law cases in 2020, or 31.0 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The South Carolina Supreme Court heard 16 nonjudicial activity cases in 2020, or 18.4 percent of its total caseload for the year.

SOUTH DAKOTA SUPREME COURT



Justices	Janine Kern	Mark Salter	David Gilbertson	Steven Jensen	Patricia DeVaney
Confidence Score	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Strong Republican
Opinion Partners		✓		✓	
Dissenting Minority					
Determining Majority					
Lone Dissenter					

- ▶ Number of justices: **5**
- ▶ Number of cases: **73**
- ▶ Percentage of cases with a unanimous ruling: **91.8% (87)**
- ▶ Justice most often writing the majority opinion: **Justice Jensen (18)**
- ▶ Per curiam decisions: **2**
- ▶ Concurring opinions: **3**
- ▶ Justice with most concurring opinions: **Justices Gilbertson, Kern, and Salter (1)**
- ▶ Dissenting opinions: **3**
- ▶ Justice with most dissenting opinions: **Justice DeVaney, Kern, and Jensen (1)**

COURT CONTENTION

Opinion partners/dissenting minority

In 2020, two cases before the South Dakota Supreme Court were decided by split decision. Justices Jensen and Salter were opinion partners in one of those two cases, and they concurred in part and dissented in part together in two decisions as well. In our *Ballotpedia Courts: State Partisanship* study, Justices Jensen and Salter recorded Mild Republican Confidence Scores.

Determining majority

There was no consistent determining majority in the cases decided by split

decision before the South Dakota Supreme Court. Justice Gilbertson was the only justice in the majority in both decisions. In our *Ballotpedia Courts: State Partisanship* study, Justice Gilbertson recorded a Mild Republican Confidence Score.

Lone dissenter

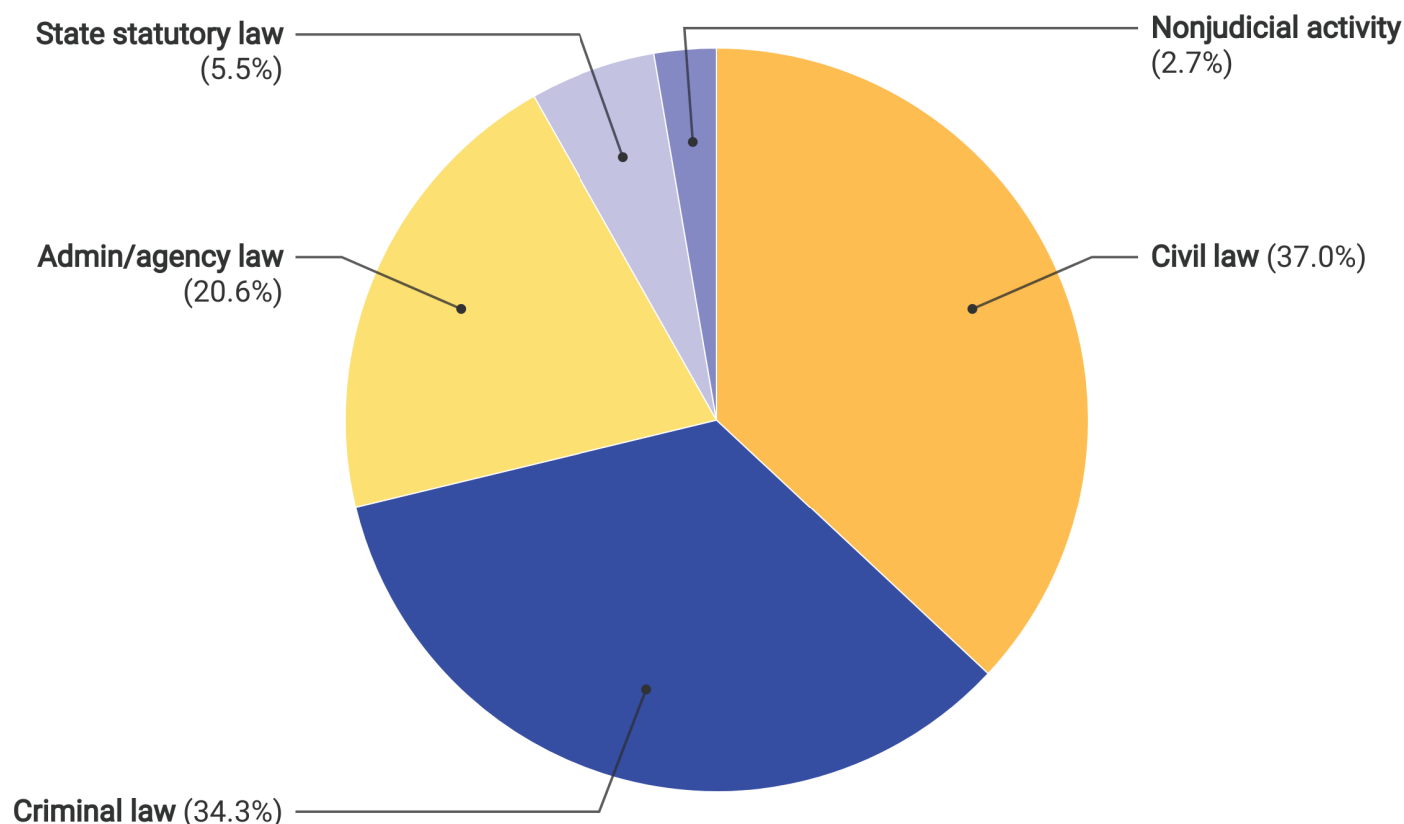
There was a lone dissenter in one case before the South Dakota Supreme Court in 2020. In that case, Justice Kern was the lone dissenter. In our *Ballotpedia Courts: State Partisanship* study, Kern recorded a Mild Republican Confidence Score.

COURT JURISDICTION

The court hears appeals of decisions rendered by lower courts in the state. The court also has authority over some original matters, and it can be called on to advise the state's governor regarding executive powers.

The South Dakota Supreme Court is also responsible for administering the South Dakota Unified Judicial System. This system was created in 1975 through an amendment to the South Dakota Constitution. The court is responsible for developing a budget for the entire state court system and for supervising the work of the state's circuit (trial) courts. The court also makes rules covering practices and procedures of the state's court system, how the courts are administered, the terms of court, bar admissions, and attorney discipline questions.

Case types decided by South Dakota Supreme Court, 2020








BALLOTPEDIA

The most common cases heard by the South Dakota Supreme Court in 2020 were civil law cases. Of the 73 cases it heard, 27 were civil law cases, or 37.0 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The South Dakota Supreme Court heard 25 criminal law cases in 2020, or 34.2 percent of its total caseload for the year.

The third most common cases that reached the court were administrative law cases. An administrative law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. The South Dakota Supreme Court heard 15 administrative law cases in 2020, or 20.5 percent of its total caseload for the year.

TENNESSEE SUPREME COURT

					
Justices	Jeff Bivins	Holly Kirby	Roger A. Page	Cornelia Clark	Sharon G. Lee
Confidence Score	Mild Republican	Mild Republican	Mild Republican	Mild Democrat	Mild Democrat
Opinion Partners					
Dissenting Minority					
Determining Majority					
Lone Dissenter					

- ▶ Number of justices: **5**
- ▶ Number of cases: **34**
- ▶ Percentage of cases with a unanimous ruling: **85.3% (29)**
- ▶ Justice most often writing the majority opinion: **Justice Clark (8)**
- ▶ Per curiam decisions: **3**
- ▶ Concurring opinions: **2**
- ▶ Justice with most concurring opinions: **Justice Kirby (2)**
- ▶ Dissenting opinions: **6**
- ▶ Justice with most dissenting opinions: **Justice Lee (3)**

COURT CONTENTION

Opinion partners/dissenting minority

In 2020, one case before the Tennessee Supreme Court was decided 3-2. In the only case decided by split decision Justices Clark and Lee were in the minority. In our *Ballotpedia Courts: State Partisanship* study Justices Clark and Lee recorded Mild Democratic Confidence Scores. They were the only two justices who recorded Democratic Confidence Scores on the Tennessee Supreme Court.

Determining majority

In the one case decided by split decision, Justices Bivins, Kirby, and Page were in the majority. Justice Kirby wrote a separate concurring opinion. In our *Ballotpedia Courts: State Partisanship* study, Justices Bivins, Kirby, and Page recorded Mild Republican Confidence Scores.

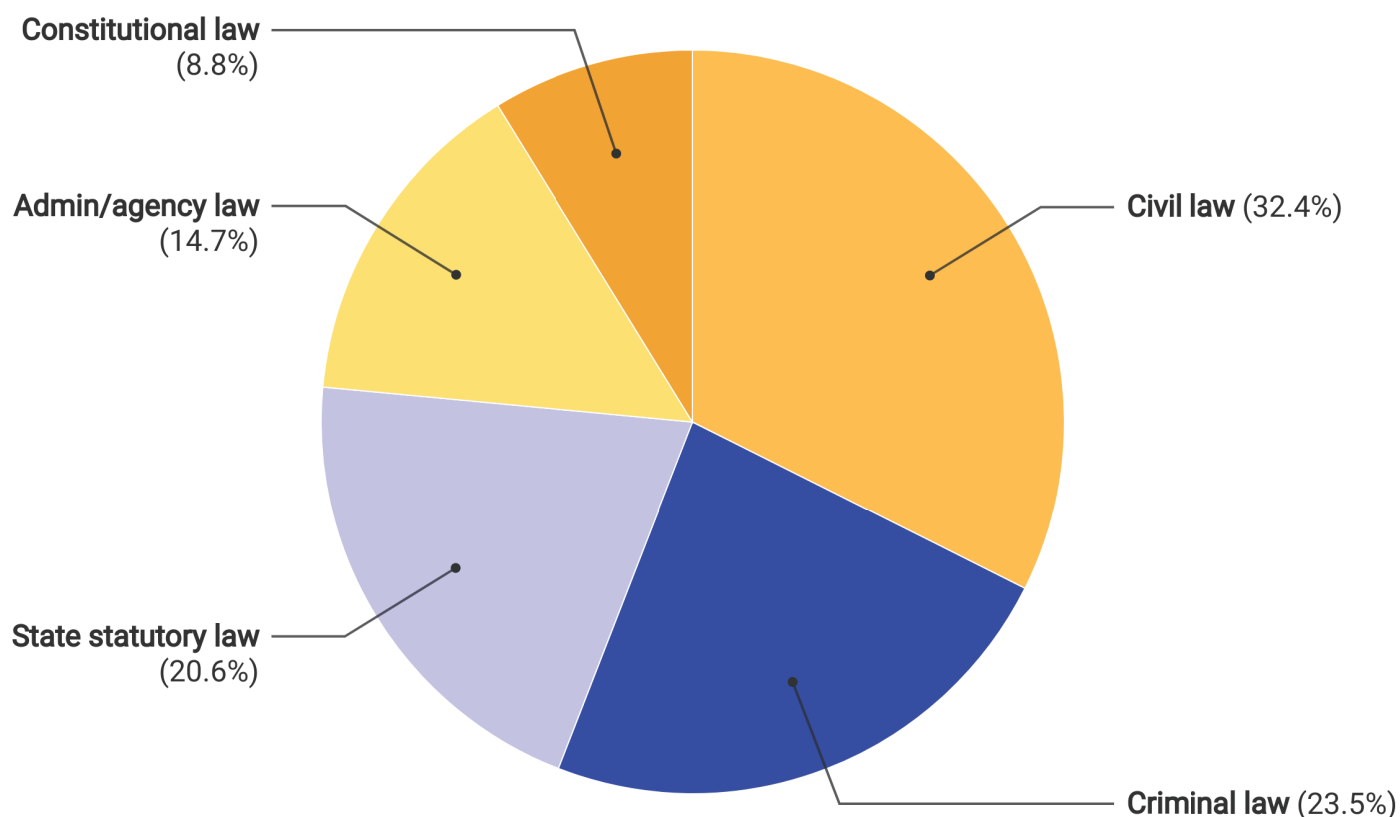
Lone dissenter

In 2020, no justice on the Tennessee Supreme Court dissented alone. Justice Kirby filed two opinions concurring in part and dissenting in part, which no other justices joined, and two concurring opinions which no other justices joined. Justice Lee filed two opinions concurring in part and dissenting in part which no other justices joined.

COURT JURISDICTION

The court hears appeals of civil and criminal cases from lower state courts, such as the Tennessee Court of Appeals and the Tennessee Court of Criminal Appeals. The supreme court may assume jurisdiction over undecided cases in the court of appeals or court of criminal appeals when a decision is needed on an emergency basis. The court also has appellate jurisdiction in cases involving state taxes, the right to hold public office, and issues of Constitutional Law.

Case types decided by Tennessee Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Tennessee Supreme Court in 2020 were civil law cases. Of the 34 cases it heard, 11 were civil law cases, or 32.4 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The Tennessee Supreme Court heard eight criminal law cases in 2020, or 23.5 percent of its total caseload for the year.

The third most common cases that reached the court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Tennessee Supreme Court heard seven state statutory law cases in 2020, or 20.6 percent of its total caseload for the year.

TEXAS SUPREME COURT

									
	Jane Bland	Nathan Hecht	Jeffrey Boyd	Brett Busby	Paul Green	Eva Guzman	Debra Lehrmann	Jimmy Blacklock	John Devine
Confidence Score	Strong Republican	Strong Republican	Strong Republican	Strong Republican	Mild Republican	Strong Republican	Strong Republican	Strong Republican	Strong Republican
Opinion Partners									
Dissenting Minority									
Determining Majority									
Lone Dissenter									

- ▶ Number of justices: **9**
- ▶ Number of cases: **90**
- ▶ Percentage of cases with a unanimous ruling: **82.2% (74)**
- ▶ Justice most often writing the majority opinion: **Justices Bland and Busby (10 each)**
- ▶ Per curiam decisions: **28**
- ▶ Concurring opinions: **11**
- ▶ Justice with most concurring opinions: **Justices Guzman and Blacklock (3 each)**
- ▶ Dissenting opinions: **17**
- ▶ Justice with most dissenting opinions: **Justice Boyd (6)**

COURT CONTENTION

Opinion partners

In 2020, five cases before the Texas Supreme Court were decided 7-2. No justices dissented frequently enough to be considered opinion partners. Justices Green and Hecht dissented together twice, which was more than any other two justices. In our *Ballotpedia Courts: State Partisanship* study, Green recorded a Mild Republican Confidence Score and Hecht recorded a Strong Republican Confidence Score.

Dissenting minority

In 2020, one case before the Texas Supreme Court was decided by split decision. In that case, Justices Boyd, Devine, Guzman, and Hecht were in the minority, all of whom recorded Strong Republican Confidence Scores in our *Ballotpedia Courts: State Partisanship* study.

Determining majority

Because no majority formed frequently enough, it is not possible to discern a determining majority with the data from 2020. The justices who ruled in the majority were Justices Blacklock, Bland, Busby, Lehrman, and Green. In our *Ballotpedia Courts: State Partisanship* study Blacklock, Bland, Busby, and Lehrman recorded Strong Republican Confidence Scores. Justice Green recorded a Mild Republican Confidence Score.

Lone dissenter

In 2020, there was a lone dissenter in five cases before the Texas Supreme Court. No justice dissented alone frequently enough to be considered a lone dissenter. Justices Boyd and Devine each dissented alone twice.

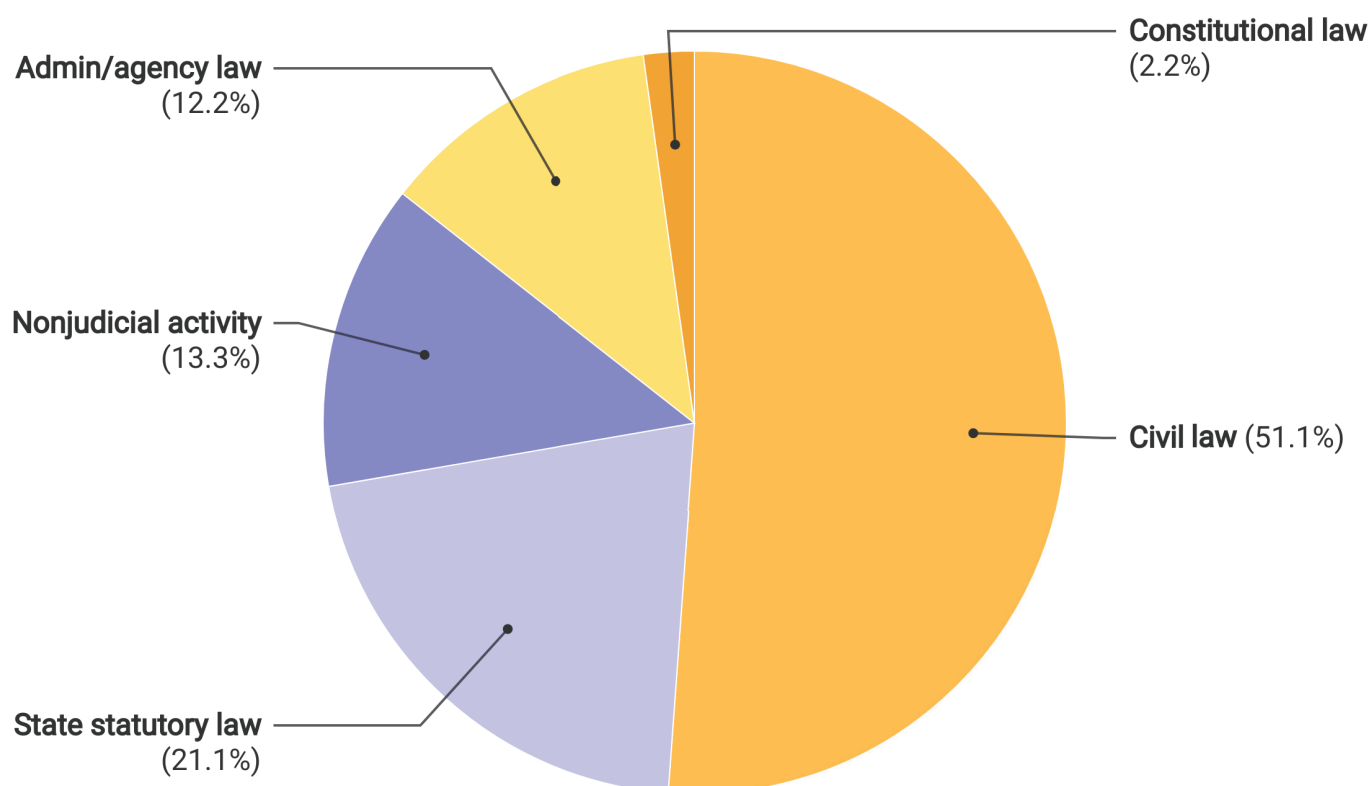
COURT JURISDICTION

The Texas Supreme Court has jurisdiction over all civil cases, while the Court of Criminal Appeals exercises discretionary review over criminal cases. The caseload of the Texas Supreme Court is determined by whether the court decides to grant a review of a judgment. The court has mandatory jurisdiction over writs of mandamus and habeas corpus.

Much of the supreme court's time is spent determining which petitions for review will be granted, as it must consider all petitions for review that are filed. The court usually takes only those cases that present the most significant Texas legal issues in need of clarification.

The supreme court also has jurisdiction to answer questions of state law certified from a federal appellate court; has original jurisdiction to issue writs and to conduct proceedings for the involuntary retirement or removal of judges; and reviews cases involving attorney discipline upon appeal from the Board of Disciplinary Appeals of the State Bar of Texas.

Case types decided by Texas Supreme Court, 2020










BALLOTPEDIA

The most common cases heard by the Texas Supreme Court in 2020 were civil law cases. Of the 90 cases it heard, 46 were civil law cases, or 51.5 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Texas Supreme Court heard 19 state statutory law cases in 2020, or 21.1 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial activity. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Texas Supreme Court heard 12 nonjudicial activity cases in 2020, or 13.3 percent of its total caseload for the year.

TEXAS COURT OF CRIMINAL APPEALS

									
	Mary Lou Keel	Scott Walker	Sharon Keller	David Newell	Bert Richardson	Michael Keasler	Barbara Hervey	Michelle Slaughter	Kevin Yeary
Confidence Score	Mild Republican	Strong Republican	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Mild Republican
Opinion Partners								✓	✓
Dissenting Minority									
Determining Majority									
Lone Dissenter									

- ▶ Number of justices: **9**
- ▶ Number of cases: **159**
- ▶ Percentage of cases with a unanimous ruling: **81.1% (129)**
- ▶ Justice most often writing the majority opinion: **Justice Keller (9)**
- ▶ Per curiam decisions: **116**
- ▶ Concurring opinions: **22**
- ▶ Justice with most concurring opinions: **Justice Keasler (6)**
- ▶ Dissenting opinions: **21**
- ▶ Justice with most dissenting opinions: **Justice Yeary (7)**

COURT CONTENTION

Opinion partners

In 2020, the Texas Court of Criminal Appeals decided 13 cases 7-2. In seven of those cases, Justices Slaughter and Yeary were opinion partners in the dissent. Justices Slaughter and Yeary allied in dissent in ten opinions in 2020. In our *Ballotpedia Courts: State Partisanship* study Justices Slaughter and Yeary recorded Mild Republican Confidence Scores.

Dissenting minority/determining majority

In 2020, the Texas Court of Criminal Appeals decided three cases 5-4. There was no consistent minority or majority in those cases. Each justice was in the minority in at least one of the cases decided by split decision.

Lone dissenter

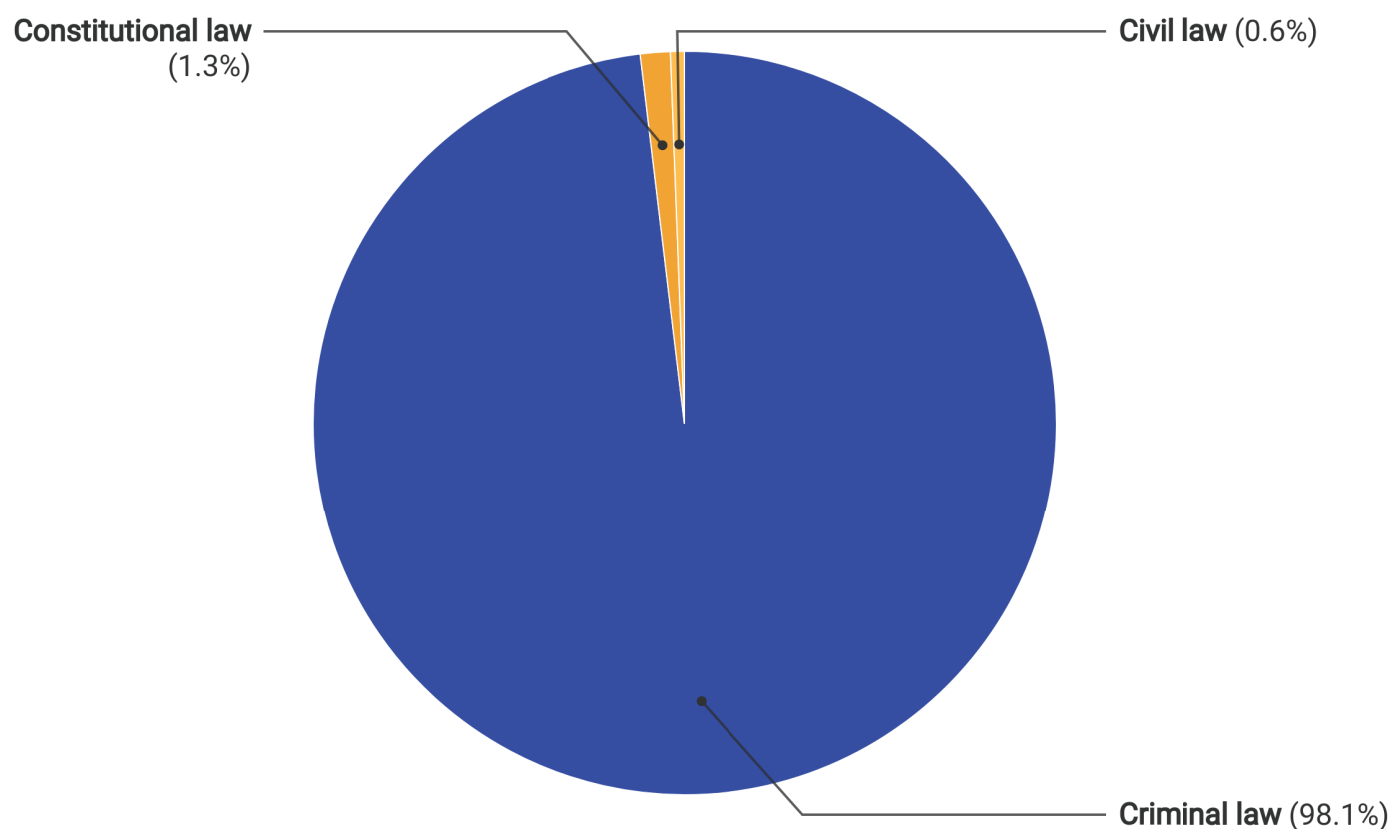
In 2020, the Texas Court of Criminal Appeals decided six cases 8-1. No justice consistently dissented alone in those cases. Justice Walker and Justice Slaughter each dissented twice in cases decided 8-1.

COURT JURISDICTION

The Texas Supreme Court has jurisdiction over all civil cases, while the Court of Criminal Appeals exercises discretionary review over criminal cases. This means the court may choose whether or not to review a case. The only cases that the court must hear are those that involve sentencing decisions in capital punishment cases and other cases involving liberty issues, such as capital punishment cases, cases where bail has been denied and habeas cases where a prisoner or person being detained attempts to prove some constitutional right has been violated as a result of their detention. The court is based in the state capital, Austin, and includes nine judges. Article V of the Texas Constitution vests the judicial power of the state in the court, describes the court's jurisdiction, and details the rules for judicial eligibility, elections, and filling vacancies on the court between elections.

The Texas Court of Criminal Appeals hears both mandatory and discretionary cases. "All cases that result in the death penalty are automatically directed to the Court of Criminal Appeals from the trial court level. A significant portion of the Court's workload also involves the mandatory review of applications for post-conviction habeas corpus relief in felony cases without a death penalty, over which the Court has sole authority. In addition, decisions made by the intermediate courts of appeals in criminal cases may be appealed to the Court of Criminal Appeals by petition for discretionary review, which may be filed by the State, the defendant, or both. However, the Court may also review a decision on its own motion."

Case types decided by Texas Court of Criminal Appeals, 2020



BALLOTPEDIA

The most common cases heard by the Texas Court of Criminal Appeals in 2020 were criminal cases. Of the 159 cases it heard, 156 were criminal law cases, or 98.1 percent of its total caseload for the year. A criminal case involves a final criminal appeal before the court of last resort.

The second most common cases that reached the supreme court were constitutional cases. A constitutional case is one that involves the violation of a right expressly protected by the Constitution of the United States. The Texas Court of Criminal Appeals heard two constitutional law cases in 2020, or 1.3 percent of its total caseload for the year.

The third most common cases that reached the court were civil cases. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages. The Texas Court of Criminal Appeals heard one civil law case in 2020, or less than one percent of its total caseload for the year.

UTAH SUPREME COURT



Justices	John A. Pearce	Deno Himonas	Thomas Rex Lee	Matthew Durrant	Paige Petersen
Confidence Score	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Indeterminate
Opinion Partners					
Dissenting Minority					
Determining Majority					
Lone Dissenter			✓		

- ▶ Number of justices: **5**
- ▶ Number of cases: **70**
- ▶ Percentage of cases with a unanimous ruling: **87.1% (61)**
- ▶ Justice most often writing the majority opinion: **Justice Lee and Durrant (17 each)**
- ▶ Per curiam decisions: **1**
- ▶ Concurring opinions: **5**
- ▶ Justice with most concurring opinions: **Justice Lee (3)**
- ▶ Dissenting opinions: **9**
- ▶ Justice with most dissenting opinions: **Justice Lee (5)**

COURT CONTENTION

Opinion partners/dissenting minority

There were no consistent opinion partners and no consistent dissenting minority on the Utah Supreme Court in 2020.

Determining majority

The Utah Supreme Court decided five cases by split decision in 2020. There was no consistent determining majority in those five cases. Each justice on the court dissented twice in split cases in 2020.

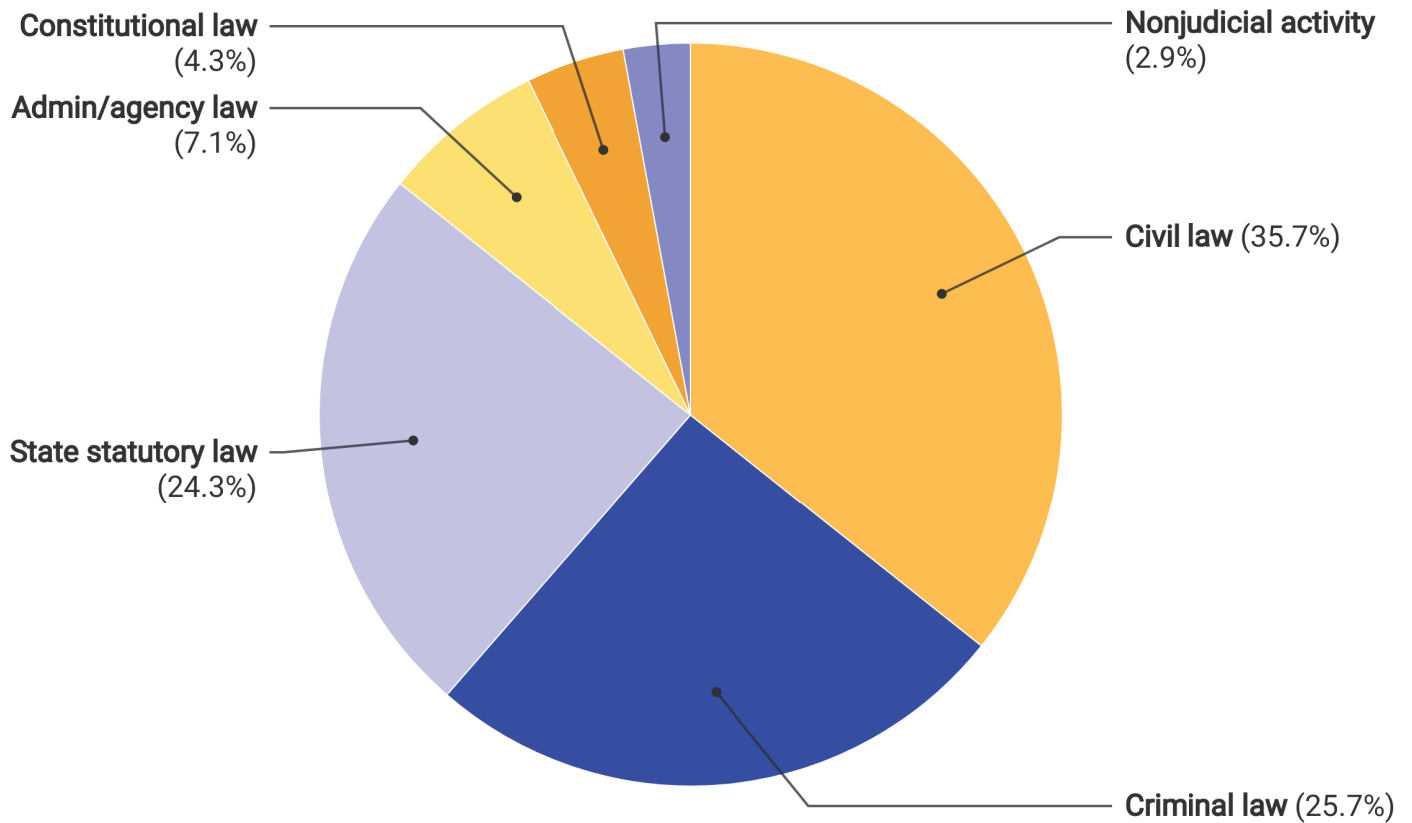
Lone dissenter

Justice Lee dissented alone three times, which was more frequently than any justice on the Utah Supreme Court in 2020. In our *Ballotpedia Courts: State Partisanship* study, Lee recorded a Mild Republican Confidence Score.

COURT JURISDICTION

The Utah Supreme Court has original jurisdiction over matters of state law that were certified from federal courts, and can also issue extraordinary writs. The court has appellate jurisdiction for cases of first-degree and capital felony convictions from the district court. Appellate jurisdiction also extends to civil judgments besides domestic cases. The court reviews the administrative proceedings of the Public Service Commission, the Tax Commission, the School and Institutional Trust Lands Board of Trustees, the Board of Oil, Gas, and Mining, and the State Engineer. Additionally, the supreme court also has jurisdiction over the rulings of the Utah Court of Appeals by writ of certiorari and both constitutional and election questions. The court makes final rulings of interpretation of the Utah Constitution, as well as adopting rules for civil and criminal procedure and rules of evidence for use in the state courts. The court has administrative power over the Judicial Conduct Commission and the practice of law in the state, including admission, conduct, and discipline of attorneys.

Case types decided by Utah Supreme Court, 2020








BALLOTPEDIA

The most common cases heard by the Utah Supreme Court in 2020 were civil cases. Of the 70 cases it heard, 25 were Civil Law cases, or 35.7 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal cases. A criminal case involves a final criminal appeal before the court of last resort. The Utah Supreme Court heard 18 criminal law cases in 2020, or 25.7 percent of its total caseload for the year.

The third most common cases that reached the court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Utah Supreme Court heard 17 state statutory law cases in 2020, or 24.3 percent of its total caseload for the year.

VERMONT SUPREME COURT

Justices					
Confidence Score	Mild Republican	Indeterminate	Strong Democrat	Indeterminate	Mild Republican
Opinion Partners					
Dissenting Minority					
Determining Majority	✓	✓		✓	✓
Lone Dissenter			✓		

- ▶ Number of justices: **5**
- ▶ Number of cases: **218**
- ▶ Percentage of cases with a unanimous ruling: **95.9% (209)**
- ▶ Justice most often writing the majority opinion: **Justice Carroll (22)**
- ▶ Per curiam decisions: **125**
- ▶ Concurring opinions: **3**
- ▶ Justice with most concurring opinions: **Justice Robinson (2)**
- ▶ Dissenting opinions: **9**
- ▶ Justice with most dissenting opinions: **Justices Reiber and Robinson (3 each)**

COURT CONTENTION

Opinion partners/Dissenting minority

No two justices dissented together consistently in 2020. Justice Eaton was an opinion partner in four cases: twice with Justice Reiber and twice with Justice Cohen. In our *Ballotpedia Courts: State Partisanship* study, Justice Eaton recorded an Indeterminate Confidence Score, and Justices Cohen and Reiber recorded Mild Republican Confidence Scores.

Determining majority

Five cases were decided by split decision in 2020. There was no consistent determining majority in 2020.

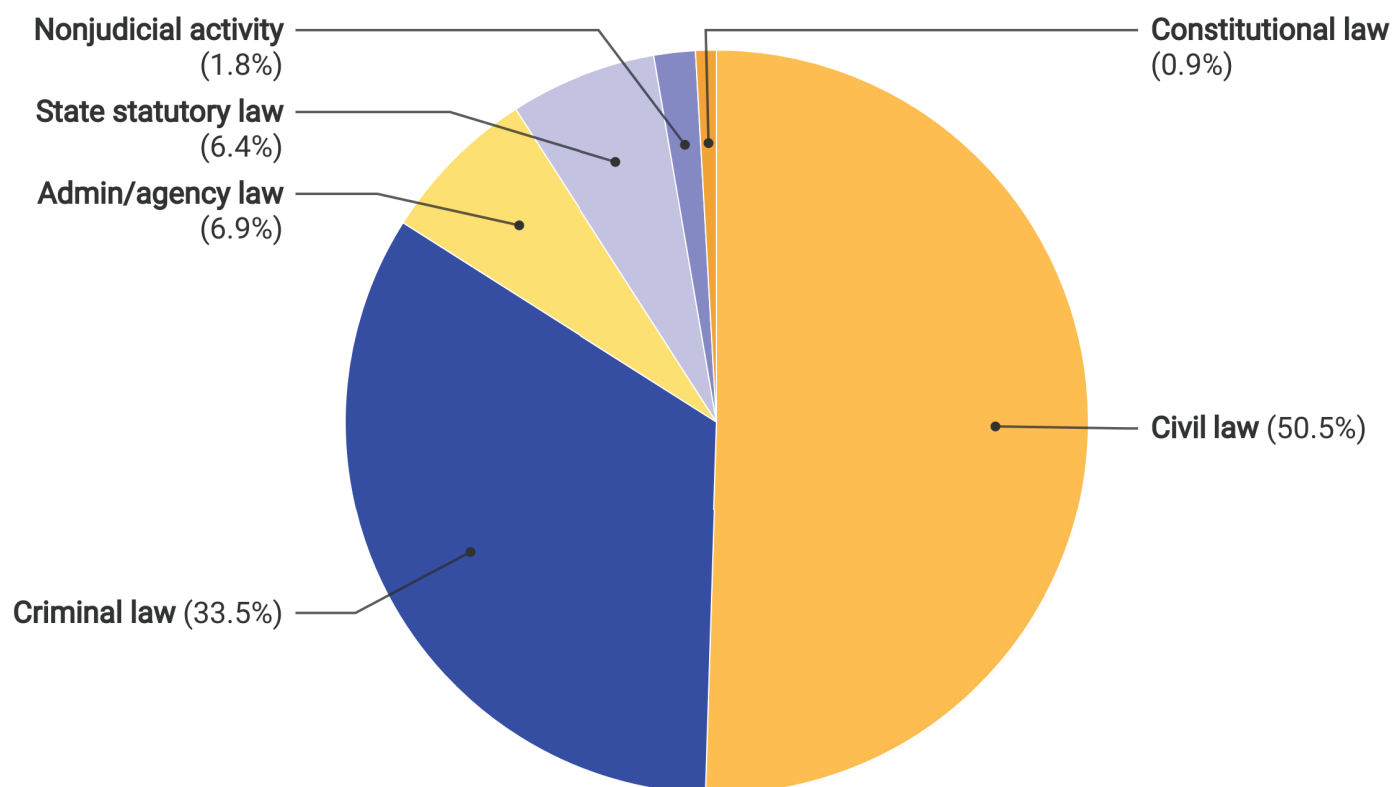
Lone dissenter

Justice Robinson dissented alone three times in 2020, and joined a dissent written by Justice Reiber in one case. In our *Ballotpedia Courts: State Partisanship* study, Justice Robinson recorded a Strong Democratic Confidence Score.

COURT JURISDICTION

The court has jurisdiction over final appeals in all cases originating in the state courts and establishes the rules of civil, criminal, family, and appellate procedure. Additionally, the Vermont Supreme Court has the responsibility of administering the court system, must admit all attorneys in the state to practice law, and is the disciplinary authority for judicial officers and attorneys.

Case types decided by Vermont Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Vermont Supreme Court in 2020 were civil cases. Of the 218 cases it heard, 110 were civil law cases, or 50.5 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal

law cases. A criminal case involves a final criminal appeal before the court of last resort. The Vermont Supreme Court heard 73 criminal law cases in 2020, or 33.5 percent of its total caseload for the year.

The third most common cases that reached the court were administrative law cases. An administrative law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. The Vermont Supreme Court heard 15 administrative law cases in 2020, or 6.9 percent of its total caseload for the year.

SUPREME COURT OF VIRGINIA

Justices							
	Bill Mims	Donald Lemons	Cleo Powell	Teresa Chafin	S. Bernard Goodwyn	Stephen R. McCullough	D. Arthur Kelsey
Confidence Score	Mild Republican	Mild Republican	Mild Democrat	Mild Republican	Indeterminate	Strong Democrat	Mild Republican
Opinion Partners			✓				✓
Dissenting Minority		✓		✓			
Determining Majority	✓		✓		✓	✓	
Lone Dissenter							

- ▶ Number of justices: **7**
- ▶ Number of cases: **55**
- ▶ Percentage of cases with a unanimous ruling: **96.4% (53)**
- ▶ Justice most often writing the majority opinion: **Justice McCullough (10)**
- ▶ Per curiam decisions: **7**
- ▶ Concurring opinions: **0**
- ▶ Dissenting opinions: **2**
- ▶ Justice with most dissenting opinions: **Justice Kelsey (2)**

COURT CONTENTION

Opinion partners

There was only one case in 2020 in which two justices dissented together against the majority. In that case, Justices Kelsey and Powell were opinion partners. In our *Ballotpedia Courts: State Partisanship* study, Justice Kelsey recorded a Mild Republican Confidence Score and Justice Powell recorded a Mild Democratic Confidence Score.

Dissenting minority

There was only one case in 2020 decided by split decision. In that case, Justices Chafin, Kelsey, and Lemons were the dissenting minority. In our *Ballotpedia Courts: State Partisanship* study, Justices Chafin, Kelsey, and Lemons each recorded a Mild Republican Confidence Score.

Determining majority

In the one case decided by split decision in 2020, Justices Goodwyn, McCullough, Mims, and Powell were the determining majority. In our *Ballotpedia Courts: State Partisanship* study, Justice Goodwyn recorded an Indeterminate Confidence Score, Justice McCullough recorded a Strong Republican Confidence Score, Justice Mims recorded a Mild Republican Confidence Score, and justice Powell recorded a Mild Democratic Confidence Score.

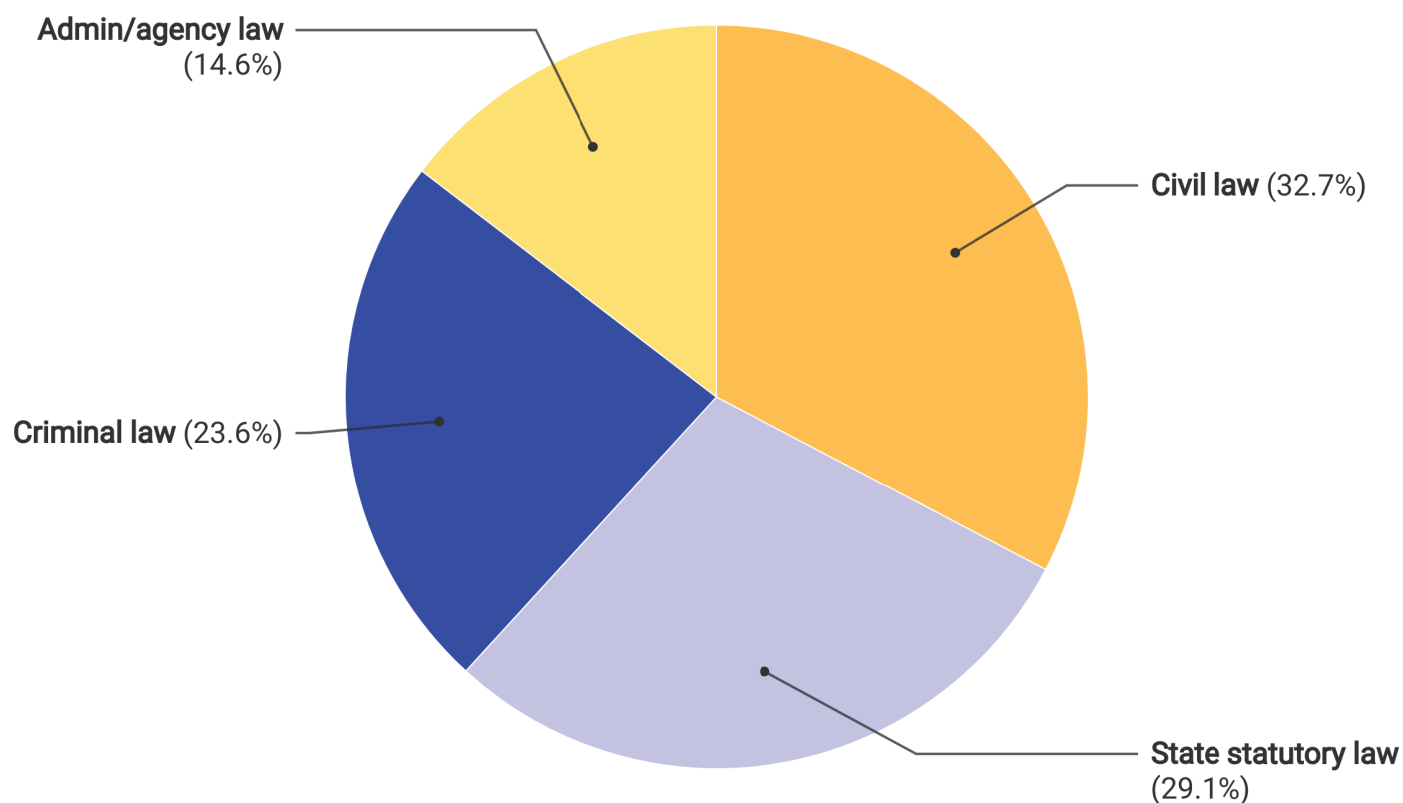
Lone dissenter

No justice on the Virginia Supreme Court dissented alone in 2020.

COURT JURISDICTION

The court's primary function is to review lower court decisions, and state law does not allow appeals to the court "as a matter of right" except where the State Corporation Commission, the disbarment of an attorney, or a review of the death penalty is involved. The court has both original and appellate jurisdiction. Original jurisdiction is limited to matters filed by the Virginia Judicial Inquiry and Review Commission (on the topics of judicial censure, retirement, and the removal of judges) and to cases of habeas corpus, mandamus, prohibition, and "writs of actual innocence pursuant to Virginia's Code § 19.2-327.2."

Case types decided by Supreme Court of Virginia, 2020



BALLOTPEDIA

The most common cases heard by the Virginia Supreme Court in 2020 were civil cases. Of the 55 cases it heard, 18 were civil law cases, or 32.7 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were state statutory cases. A state statutory case involves the violation or enforcement of a state statute. The Virginia Supreme Court heard 16 state statutory law cases in 2020, or 29.1 percent of its total caseload for the year.

The third most common cases that reached the court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The Virginia Supreme Court heard 13 criminal law cases in 2020, or 23.6 percent of its total caseload for the year.

SUPREME COURT OF APPEALS OF WEST VIRGINIA



Justices	Margaret Workman	Tim Armstead	John Hutchison	Beth Walker	Evan Jenkins
Confidence Score	Strong Democrat	Strong Republican	Mild Republican	Mild Republican	Mild Republican
Opinion Partners	✓		✓		
Dissenting Minority	✓		✓		
Determining Majority		✓		✓	✓
Lone Dissenter	✓				

- ▶ Number of justices: **5**
- ▶ Number of cases: **899**
- ▶ Percentage of cases with a unanimous ruling: **91.5% (823)**
- ▶ Justice most often writing the majority opinion: **Justice Tim Armstead (25)**
- ▶ Per curiam decisions: **794**
- ▶ Concurring opinions: **6**
- ▶ Justice with most concurring opinions: **Justice Tim Armstead (5)**
- ▶ Dissenting opinions: **23**
- ▶ Justice with most dissenting opinions: **Justice Margaret Workman (7)**

COURT CONTENTION

Opinion partners/Dissenting minority

In 2020 the Supreme Court of Appeals of West Virginia decided 20 opinions by split decision. Justices Hutchinson and Workman were **opinion partners** in ten of those cases. In our *Ballotpedia Courts: State Partisanship* study, Justice Hutchinson recorded a Mild Republican Confidence score and Justice Workman recorded a Strong Democratic Confidence Score.

Determining Majority

Justice Walker was in the majority 19 times in cases decided by split decision

which was more often than any other justice on the court. Justices Armstead, Jenkins, and Walker were in the majority in 10 cases decided by split decision. In our *Ballotpedia Courts: State Partisanship* study, Justice Armstead recorded a Strong Republican Confidence score, Justice Jenkins recorded a Mild Republican Confidence Score, and Justice Walker recorded a Mild Republican Confidence Score.

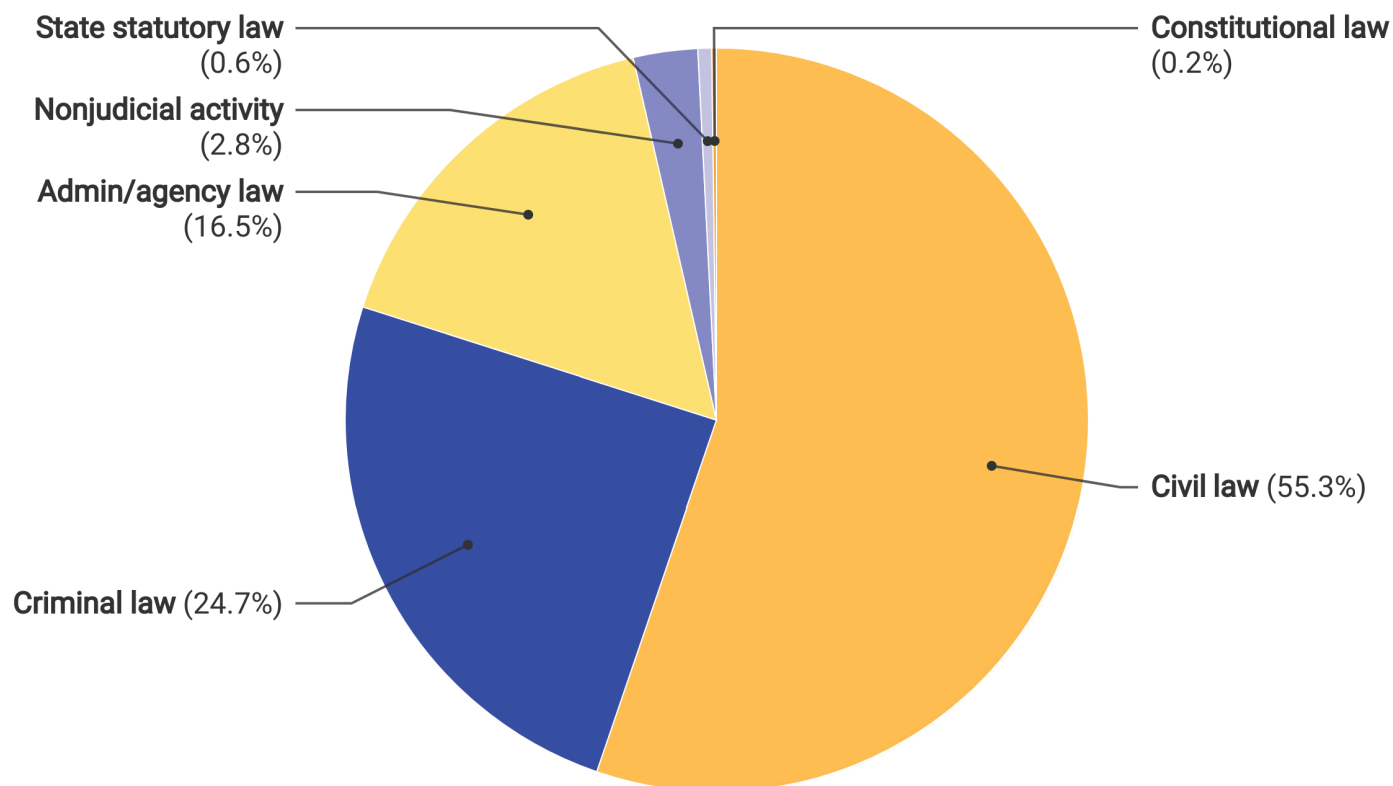
Lone dissenter

In 2020 there was a lone dissenter in 44 cases before the Supreme Court of Appeals of West Virginia. Justice Workman was a lone dissenter in 31 of those cases

COURT JURISDICTION

The court has original jurisdiction on matters of habeas corpus, mandamus, prohibition, and certiorari. The court also interprets the law and the state constitution.

Case types decided by Supreme Court of Appeals of West Virginia, 2020



BALLOTPEDIA






The most common cases heard by the West Virginia Supreme Court in 2020 were civil law. Of the 899 cases it heard, 497 were civil cases, or 55.3 percent of its

total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The West Virginia Supreme Court heard 222 criminal cases in 2020, or 24.7 percent of its total caseload for the year.

The third most common cases that reached the court were admin/agency law cases. An admin/agency law case first proceeds from an administrative law court or involves the enforcement of an administrative regulation. The West Virginia Supreme Court heard 148 admin/agency cases in 2020, or 16.5 percent of its total caseload for the year.

WYOMING SUPREME COURT

Justices					
	Keith G. Kautz	Michael K. Davis	Kate M. Fox	Lynne Boomgaarden	Kari Gray
Confidence Score	Mild Republican	Mild Republican	Mild Republican	Mild Republican	Strong Republican
Opinion Partners		✓	✓		
Dissenting Minority		✓	✓		
Determining Majority	✓			✓	✓
Lone Dissenter			✓		

- ▶ Number of justices: **5**
- ▶ Number of cases: **158**
- ▶ Percentage of cases with a unanimous ruling: **96.2% (152)**
- ▶ Justice most often writing the majority opinion: **Justice Boomgaarden (28)**
- ▶ Per curiam decisions: **26**
- ▶ Concurring opinions: **6**
- ▶ Justice with most concurring opinions: **Justice Kautz (3)**
- ▶ Dissenting opinions: **6**
- ▶ Justice with most dissenting opinions: **Justice Fox (3)**

COURT CONTENTION

The Wyoming Supreme Court decided 152 cases unanimously in 2020, but there were some patterns among the justices which allowed us to identify a possible determining majority and dissenting minority, as well as opinion partners and a lone dissenter.

Opinion partners/dissenting minority

The Wyoming Supreme Court is a five-member court, which means that the opinion partners are also the dissenting minority on the court. The justices who ruled together apart from the majority most frequently were Justices Davis and Fox. They ruled together three times in the minority: once concurring with the majority and twice dissenting. In our *Ballotpedia Courts: State Partisanship* study, Justices Davis and Fox both recorded mild Republican Confidence Scores. Justice Fox and Justice Kautz also dissented apart from the majority in one case.

Determining majority

On the Wyoming Supreme Court 96.2 percent of all cases were decided unanimously. The court decided five cases by split decision in 2020. The justices in the majority most frequently in the split cases were Justices Boomgaarden, Gray, and Kautz. In our *Ballotpedia Courts: State Partisanship* study, every justice on the Wyoming Supreme Court recorded a Republican Confidence Score. Justices Boomgaarden, Davis, Fox, and Kautz recorded Mild Republican Confidence Scores. Justice Gray recorded a Strong Republican Confidence Score.

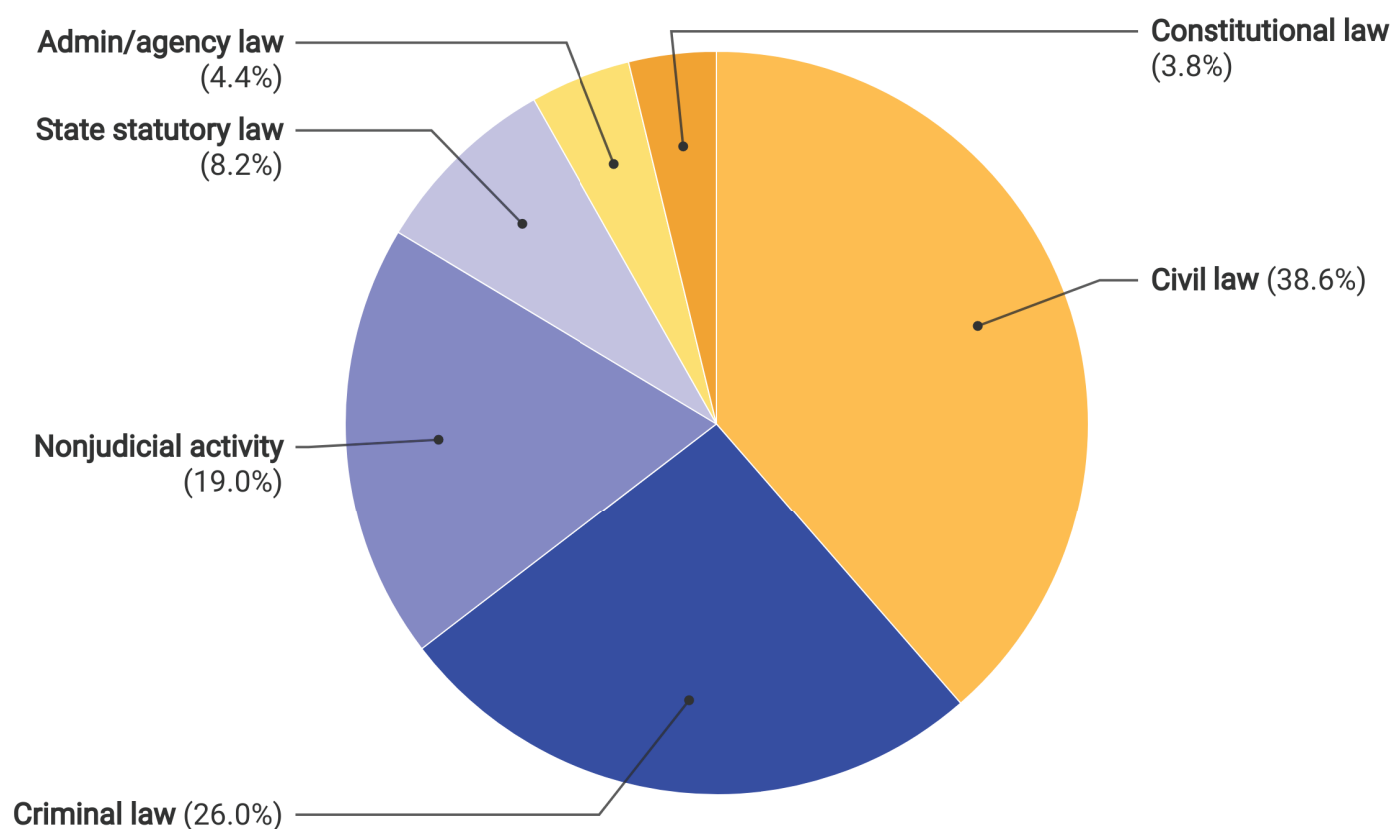
Lone dissenter

Justice Fox wrote more dissenting opinions than any other justice on the court in 2020. She departed from the majority seven times, which was more than any other justice on the court. Justice Fox wrote two concurring opinions and joined one concurring opinion in 2020. She wrote two dissenting opinions and joined one dissenting opinion written by Justice Davis, and she joined substitute Justice Lavery's opinion concurring in part and dissenting in part in one case. In our *Ballotpedia Courts: State Partisanship* study, Justice Fox recorded a Mild Republican Confidence Score.

COURT JURISDICTION

The Wyoming Supreme Court has general appellate jurisdiction, hearing appeals from lower Wyoming courts in civil and criminal cases. The Supreme Court has original jurisdiction in cases involving quo warranto and mandamus relating to all state officers and in cases regarding habeas corpus. The Court also has the power to issue writs of mandamus, review, prohibition, habeas corpus, certiorari, and other writs necessary to the exercise of its appellate duties.

Case types decided by Wyoming Supreme Court, 2020



BALLOTPEDIA

The most common cases heard by the Wyoming Supreme Court in 2020 were civil cases. Of the 158 cases it heard, 61 were civil law, or 38.6 percent of its total caseload for the year. A civil case is one that involves a dispute between two parties, one of whom seeks reparations or damages.

The second most common cases that reached the supreme court were criminal law cases. A criminal case involves a final criminal appeal before the court of last resort. The Wyoming Supreme Court heard 41 criminal law cases in 2020, or 25.9 percent of its total caseload for the year.

The third most common cases that reached the court were nonjudicial cases. A case is considered nonjudicial activity if it does not involve a formal hearing and discussion before the court. The Wyoming Supreme Court heard 30 nonjudicial activity cases in 2020, or 19.0 percent of its total caseload for the year.

